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

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2015–0625; Directorate Identifier 2015–NE–09–AD; Amendment 39–18253; AD 2015–17–20]

RIN 2120–AA64

Airworthiness Directives; GE Aviation Czech s.r.o. Turboprop Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain serial number (S/N) GE Aviation Czech s.r.o. M601E–11, M601E–11A, and M601F turboprop engines with certain part number (P/N) gas generator turbine (GGT) blades, installed. This AD requires removing from service any affected engine with certain GGT blades installed. This AD was prompted by the determination that certain GGT blades are susceptible to blade failure. We are issuing this AD to prevent GGT blade failure, which could lead to engine failure and loss of the airplane.

DATES: This AD becomes effective October 1, 2015.

ADDRESSES: See the **FOR FURTHER INFORMATION CONTACT** section.

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–2015–0625; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the mandatory continuing airworthiness information (MCAI), the regulatory evaluation, any comments received, and other information. The address for the Docket Office (phone: 800–647–5527) is Document Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Robert Green, Aerospace Engineer, Engine Certification Office, FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; phone: 781–238–7754; fax: 781–238–7199; email: *robert.green@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to the specified products. The NPRM was published in the **Federal Register** on April 21, 2015 (80 FR 22136). The NPRM proposed to correct an unsafe condition for the specified products. The MCAI states:

> It has been demonstrated that non-shot peened Gas Generator Turbine (GGT) blades are susceptible to blade separation in the shank area due to their reduced fatigue life.
>
> This condition, if not corrected, could lead to an in-flight engine shutdown and, consequently, reduced control of the aeroplane.

Comments

We gave the public the opportunity to participate in developing this AD. We received no comments on the NPRM (80 FR 22136, April 21, 2015).

In our review of the NPRM, we found that we had included an S/N from the MCAI that was in error. We corrected the error by removing S/N 961001 from paragraph (c)(2) of this AD.

Conclusion

We reviewed the available data and determined that air safety and the public interest require adopting this AD with the changes described previously. We determined that these changes will not increase the economic burden on any operator or increase the scope of this AD.

Costs of Compliance

We estimate that this AD affects one engine installed on an airplane of U.S. registry. We also estimate that it would take about 64 hours per engine to comply with this AD. The average labor rate is $85 per hour. Required parts cost about $28,765 per engine. Based on these figures, we estimate the cost of this AD on U.S. operators to be $34,205.

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this AD:

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

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

(3) Will not affect intrastate aviation in Alaska to the extent that it justifies making a regulatory distinction, and

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2015–17–20 GE Aviation Czech s.r.o. (Type Certificate previously held by WALTER Engines a.s., Walter a.s., and MOTORLET a.s.): Amendment 39–18253; Docket No. FAA–2015–0625; Directorate Identifier 2015–NE–09–AD.

(a) Effective Date

This AD becomes effective October 1, 2015.

(b) Affected ADs

None.

(c) Applicability

This AD applies to certain serial number (S/N) GE Aviation Czech s.r.o. M601E–11, M601E–11A, and M601F turboprop engine models, with gas generator turbine (GGT) blade, part number (P/N) M601–3372.6 or M601–3372.51, installed, as follows:

(1) Model M601E–11: S/Ns 862001, 863008, 894018, 034005, 034006, 034007, 034008, 041003, and 042002.

(2) Model M601E–11A: S/Ns 042003, 042004, 044001, and 044002.

(3) Model M601F: S/Ns 024001, 002001, 003001, 934001, 934002, 961001.

(d) Reason

This AD was prompted by the determination that certain GGT blades are susceptible to blade failure. These blades are identified as blade P/Ns M601–3372.6 and M601–3372.51, and are installed on an engine S/N identified in paragraph (c) of this AD. We are issuing this AD to prevent GGT blade failure, which could lead to engine failure and loss of the airplane.

(e) Actions and Compliance

Comply with this AD within the compliance times specified, unless already done. After the effective date of this AD:

(1) Do not return to service any affected engine with GGT blade, P/N M601–3372.6 or M601–3372.51, installed, after 300 hours time in service or six months, whichever occurs first, after the effective date of this AD.

(2) If the affected engines are subsequently disassembled or overhauled, the non-shot peened GGT blades, P/N M601–3372.6 or M601–3372.51, are not eligible for installation in any other engine after removal.

(f) Alternative Methods of Compliance (AMOCs)

The Manager, Engine Certification Office, FAA, may approve AMOCs for this AD. Use the procedures found in 14 CFR 39.19 to make your request. You may email your request to: *ANE–AD–AMOC@faa.gov.*

(g) Related Information

(1) For more information about this AD, contact Robert Green, Aerospace Engineer, Engine Certification Office, FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; phone: 781–238–7754; fax: 781–238–7199; email: *robert.green@faa.gov.*

(2) Refer to MCAI European Aviation Safety Agency AD 2015–0015, dated January 30, 2015, for more information. You may examine the MCAI in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating it in *http://www.regulations.gov/#!documentDetail;D=FAA-2015-0625-0002.*

(h) Material Incorporated by Reference

None.

Issued in Burlington, Massachusetts, on August 20, 2015.

Colleen M. D'Alessandro,

Directorate Manager, Engine & Propeller Directorate, Aircraft Certification Service.

[FR Doc. 2015–21119 Filed 8–26–15; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2015–3375; Amendment No. 71–47]

RIN 2120–AA66

Airspace Designations; Incorporation by Reference

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends Title 14 Code of Federal Regulations (14 CFR) part 71 relating to airspace designations to reflect the approval by the Director of the Federal Register of the incorporation by reference of FAA Order 7400.9Z, Airspace Designations and Reporting Points. This action also explains the procedures the FAA will use to amend the listings of Class A, B, C, D, and E airspace areas; air traffic service routes; and reporting points incorporated by reference.

DATES: These regulations are effective September 15, 2015, through September 15, 2016. The incorporation by reference of FAA Order 7400.9Z is approved by the Director of the Federal Register as of September 15, 2015, through September 15, 2016.

ADDRESSES: FAA Order 7400.9Z, Airspace Designations and Reporting Points, and subsequent amendments can be viewed on line at *http://www.faa.gov/airtraffic/publications/.* 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. 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 CONTACT: Sarah A. Combs, Airspace Policy and Regulations Group, Office of Airspace Services, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: (202) 267–8783.

SUPPLEMENTARY INFORMATION:

History

FAA Order 7400.9Y, Airspace Designations and Reporting Points, effective September 15, 2014, listed Class A, B, C, D and E airspace areas; air traffic service routes; and reporting points. Due to the length of these descriptions, the FAA requested approval from the Office of the Federal Register to incorporate the material by reference in the Federal Aviation Regulations section 71.1, effective September 15, 2014, through September 15, 2015. During the incorporation by reference period, the FAA processed all proposed changes of the airspace listings in FAA Order 7400.9Y in full text as proposed rule documents in the **Federal Register**. Likewise, all amendments of these listings were published in full text as final rules in the **Federal Register**. This rule reflects the periodic integration of these final rule amendments into a revised edition of Order 7400.9Z, Airspace Designations and Reporting Points. The Director of the Federal Register has approved the incorporation by reference of FAA Order 7400.9Z in section 71.1, as of September 15, 2015, through September 15, 2016. This rule also explains the procedures the FAA will use to amend the airspace designations incorporated by reference in part 71. Sections 71.5,

71.15, 71.31, 71.33, 71.41, 71.51, 71.61, 71.71, and 71.901 are also updated to reflect the incorporation by reference of FAA Order 7400.9Z.

Availability and Summary of Documents for Incorporation by Reference

This document incorporates by reference FAA Order 7400.9Z, airspace Designations and Reporting Points, dated August 6, 2015, and effective September 15, 2015, in section 71.1. FAA Order 7400.9Z is publicly available as listed in the **ADDRESSES** section of this final rule. FAA Order 7400.9Z lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

The Rule

This action amends Title 14 Code of Federal Regulations (14 CFR) part 71 to reflect the approval by the Director of the Federal Register of the incorporation by reference of FAA Order 7400.9Z, effective September 15, 2015, through September 15, 2016. During the incorporation by reference period, the FAA will continue to process all proposed changes of the airspace listings in FAA Order 7400.9Z in full text as proposed rule documents in the **Federal Register**. Likewise, all amendments of these listings will be published in full text as final rules in the **Federal Register**. The FAA will periodically integrate all final rule amendments into a revised edition of the Order, and submit the revised edition to the Director of the Federal Register for approval for incorporation by reference in section 71.1.

Regulatory Notices and Analyses

The FAA has determined that this action: (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. This action neither places any new restrictions or requirements on the public, nor changes the dimensions or operation requirements of the airspace listings incorporated by reference in part 71.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

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

■ 1. The authority citation for 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.

■ 2. Section 71.1 is revised to read as follows:

§ 71.1 Applicability.

A listing for Class A, B, C, D, and E airspace areas; air traffic service routes; and reporting points can be found in FAA Order 7400.9Z, Airspace Designations and Reporting Points, dated August 6, 2015. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. The approval to incorporate by reference FAA Order 7400.9Z is effective September 15, 2015, through September 15, 2016. During the incorporation by reference period, proposed changes to the listings of Class A, B, C, D, and E airspace areas; air traffic service routes; and reporting points will be published in full text as proposed rule documents in the **Federal Register**. Amendments to the listings of Class A, B, C, D, and E airspace areas; air traffic service routes; and reporting points will be published in full text as final rules in the **Federal Register**. Periodically, the final rule amendments will be integrated into a revised edition of the Order and submitted to the Director of the Federal Register for approval for incorporation by reference in this section. Copies of FAA Order 7400.9Z may be obtained from Airspace Policy and Regulations Group, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591, (202) 267–8783. An electronic version of the Order is available on the FAA Web site at *http://www.faa.gov/air_traffic/publications.* Copies of FAA Order 7400.9Z may be inspected in Docket No. FAA–2015–3375; Amendment No. 71–47 on *http://www.regulations.gov.* A copy of FAA Order 7400.9Z may be inspected at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal-register/cfr/ibr-locations.html.*

§ 71.5 [Amended]

■ 3. Section 71.5 is amended by removing the words ''FAA Order 7400.9Y'' and adding, in their place, the words ''FAA Order 7400.9Z.''

§ 71.15 [Amended]

■ 4. Section 71.15 is amended by removing the words ''FAA Order 7400.9Y'' and adding, in their place, the words ''FAA Order 7400.9Z.''

§ 71.31 [Amended]

■ 5. Section 71.31 is amended by removing the words ''FAA Order 7400.9Y'' and adding, in their place, the words ''FAA Order 7400.9Z.''

§ 71.33 [Amended]

■ 6. Paragraph (c) of section 71.33 is amended by removing the words ''FAA Order 7400.9Y'' and adding, in their place, the words ''FAA Order 7400.9Z.''

§ 71.41 [Amended]

■ 7. Section 71.41 is amended by removing the words ''FAA Order 7400.9Y'' and adding, in their place, the words ''FAA Order 7400.9Z.''

§ 71.51 [Amended]

■ 8. Section 71.51 is amended by removing the words ''FAA Order 7400.9Y'' and adding, in their place, the words ''FAA Order 7400.9Z.''

§ 71.61 [Amended]

■ 9. Section 71.61 is amended by removing the words ''FAA Order 7400.9Y'' and adding, in their place, the words ''FAA Order 7400.9Z.''

§ 71.71 [Amended]

■ 10. Paragraphs (b), (c), (d), (e), and (f) of section 71.71 are amended by removing the words ''FAA Order 7400.9Y'' and adding, in their place, the words ''FAA Order 7400.9Z.''

§ 71.901 [Amended]

■ 11. Paragraph (a) of section 71.901 is amended by removing the words ''FAA Order 7400.9Y'' and adding, in their place, the words ''FAA Order 7400.9Z.''

Issued in Washington, DC on August 19, 2015.

Gary A. Norek,

Manager, Airspace Policy and Regulations Group.

[FR Doc. 2015–21090 Filed 8–26–15; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 866

[Docket No. FDA–2015–N–2963]

Medical Devices; Immunology and Microbiology Devices; Classification of Clostridium Difficile Toxin Gene Amplification Assay

AGENCY: Food and Drug Administration, HHS.

ACTION: Final order.

SUMMARY: The Food and Drug Administration (FDA) is classifying *Clostridium difficile* (*C. difficile*) toxin gene amplification assay into class II (special controls). The Agency is classifying the device into class II (special controls) in order to provide a reasonable assurance of safety and effectiveness of the device.

DATES: This order is effective September 28, 2015. The classification was applicable April 30, 2012.

FOR FURTHER INFORMATION CONTACT: Noel Gerald, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 5566, Silver Spring, MD 20993–0002, 301–796–4695.

SUPPLEMENTARY INFORMATION:

I. Background

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

Section 513(f)(2) of the FD&C Act, as amended by section 607 of the Food and Drug Administration Safety and Innovation Act (Pub. L. 112–144), provides two procedures by which a person may request FDA to classify a device under the criteria set forth in section 513(a)(1). Under the first procedure, the person submits a premarket notification under section 510(k) of the FD&C Act for a device that has not previously been classified and, within 30 days of receiving an order classifying the device into class III under section 513(f)(1) of the FD&C Act, the person requests a classification under section 513(f)(2). Under the second procedure, rather than first submitting a premarket notification under section 510(k) of the FD&C Act and then a request for classification under the first procedure, the person determines that there is no legally marketed device upon which to base a determination of substantial equivalence and requests a classification under section 513(f)(2) of the FD&C Act. If the person submits a request to classify the device under this second procedure, FDA may decline to undertake the classification request if FDA identifies a legally marketed device that could provide a reasonable basis for review of substantial equivalence with the device or if FDA determines that the device submitted is not of ''low-moderate risk'' or that general controls would be inadequate to control the risks and special controls to mitigate the risks cannot be developed.

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

In accordance with section 513(f)(1) of the FD&C Act, FDA issued an order on February 3, 2012, automatically classifying the Portrait Toxigenic *C. difficile* Assay in class III, because it was not within a type of device which was introduced or delivered for introduction into interstate commerce for commercial distribution before May 28, 1976, nor which was subsequently reclassified into class I or class II. On March 2, 2012, Great Basin Scientific, Inc., submitted a request for de novo classification of the Portrait Toxigenic *C. difficile* Assay under section 513(f)(2) of the FD&C Act.

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

Therefore, on April 30, 2012, FDA issued an order to the requestor classifying the device into class II. FDA is codifying the classification of the device by adding § 866.3130.

Following the effective date of this final classification administrative order, any firm submitting a premarket notification (510(k)) for a *C. difficile* toxin gene amplification assay will need to comply with the special controls named in the final administrative order.

The device is assigned the generic name *C. difficile* toxin gene amplification assay, and it is identified as a device that consists of reagents for the amplification and detection of target sequences in *C. difficile* toxin genes in fecal specimens from patients suspected of having a *C. difficile* infection (CDI). The detection of clostridial toxin genes, in conjunction with other laboratory tests, aids in the clinical laboratory diagnosis of CDI caused by *C. difficile*.

FDA has identified the following risks to health associated with this type of device and the measures required to mitigate these risks:

TABLE 1—IDENTIFIED RISKS AND REQUIRED MITIGATIONS

Identified risks	Required mitigations
A false positive test result for an individual may lead to inappropriate use of antibiotics for treatment.	The FDA document entitled ''Class II Special Controls Guideline: Toxin Gene Amplification Assays for the Detection of *Clostridium difficile*,'' which addresses this risk through: Specific Device Description Requirements. Performance Studies.

TABLE 1—IDENTIFIED RISKS AND REQUIRED MITIGATIONS—Continued

Identified risks	Required mitigations
	Labeling.
A false negative test result for an individual may lead to a potential delay in treatment.	The FDA document entitled ''Class II Special Controls Guideline: Toxin Gene Amplification Assays for the Detection of *Clostridium difficile*,'' which addresses this risk through: Specific Device Description Requirements. Performance Studies. Labeling.
Failure of the test to be used or perform properly	The FDA document entitled ''Class II Special Controls Guideline: Toxin Gene Amplification Assays for the Detection of *Clostridium difficile*,'' which addresses this risk through: Labeling.
Failure to properly interpret the test results	The FDA document entitled ''Class II Special Controls Guideline: Toxin Gene Amplification Assays for the Detection of *Clostridium difficile*,'' which addresses this risk through: Labeling.

FDA believes that the measures set forth in the special controls guideline entitled ''Class II Special Controls Guideline: Toxin Gene Amplification Assays for the Detection of *Clostridium difficile*'' are necessary, in addition to general controls, to mitigate the risks to health described in table 1.

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

II. Environmental Impact

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

III. Paperwork Reduction Act of 1995

This final administrative order establishes special controls that refer to previously approved collections of information found in other FDA regulations. These collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The collections of information in part 807, subpart E, regarding premarket notification submissions have been approved under OMB control number 0910–0120; the collections of information in 21 CFR part 820 have been approved under OMB control number 0910–0073; and the collections of information in 21 CFR parts 801 and 809 have been approved under OMB control number 0910–0485.

List of Subjects in 21 CFR Part 866

Biologics, Laboratories, Medical devices.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 866 is amended as follows:

PART 866—IMMUNOLOGY AND MICROBIOLOGY DEVICES

■ 1. The authority citation for 21 CFR part 866 continues to read as follows:

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

■ 2. Add § 866.3130 to subpart D to read as follows:

§ 866.3130 Clostridium difficile toxin gene amplification assay.

(a) *Identification.* A *Clostridium difficile* toxin gene amplification assay is a device that consists of reagents for the amplification and detection of target sequences in *Clostridium difficile* toxin genes in fecal specimens from patients suspected of having *Clostridium difficile* infection (CDI). The detection of clostridial toxin genes, in conjunction with other laboratory tests, aids in the clinical laboratory diagnosis of CDI caused by *Clostridium difficile.*

(b) *Classification.* Class II (special controls). The special controls are set forth in FDA's guideline document entitled: ''Class II Special Controls Guideline: Toxin Gene Amplification Assays for the Detection of *Clostridium difficile;* Guideline for Industry and Food and Drug Administration Staff.'' See § 866.1(e) for information on obtaining this document.

Dated: August 21, 2015.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2015–21237 Filed 8–26–15; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 9731]

RIN 1545–BM11

Allocation of W–2 Wages in a Short Taxable Year and in an Acquisition or Disposition

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final and temporary regulations.

SUMMARY: This document contains final and temporary regulations relating to the allocation of W–2 wages for purposes of the W–2 wage limitation on the amount of a taxpayer's deduction related to domestic production activities. Specifically, the temporary regulations provide guidance on: the allocation of W–2 wages paid by two or more taxpayers that are employers of the same employees during a calendar year; and the determination of W–2 wages if the taxpayer has a short taxable year. The text of the temporary regulations

also serves as the text of the proposed regulations set forth in the notice of proposed rulemaking (REG–136459–09) on this subject in the Proposed Rules section in this issue of the **Federal Register**.

DATES: *Effective Date:* These regulations are effective on August 27, 2015.

Applicability Date: For dates of applicability, see § 1.199–8T(i)(10).

FOR FURTHER INFORMATION CONTACT: James A. Holmes 202–317–4137 (not a toll free call).

SUPPLEMENTARY INFORMATION:

Background

This document contains amendments to the Income Tax Regulations (26 CFR part 1) under section 199(b) of the Internal Revenue Code (Code). Section 199(b) was enacted by the American Jobs Creation Act of 2004 (Pub. L. 108–357, 118 Stat. 1418 (2004)). Subsequent amendments to section 199(b) were made by the Gulf Opportunity Zone Act of 2005 (Pub. L. 109–135, 119 Stat. 25 (2005)), the Tax Increase Prevention and Reconciliation Act of 2005 (Pub. L. 109–222, 120 Stat. 345 (2005)), the Tax Extenders and Alternative Minimum Tax Relief Act of 2008 (Pub. L. 110–343, 122 Stat 3765 (2008)), and the Tax Increase Prevention Act of 2014 (Pub. L. 113–295, 128 Stat. 4010 (2014)).

Under section 199(b)(1), the amount of the deduction allowable under section 199(a) for any taxable year shall not exceed 50 percent of the W–2 wages of the taxpayer for the taxable year. Section 199(b)(2)(A) generally defines *W–2 wages,* with respect to any person for any taxable year of such person, as the sum of amounts described in section 6051(a)(3) and (8) paid by such person with respect to employment of employees by such person during the calendar year ending during such taxable year. Section 199(b)(3), after its amendment by section 219(b) of the Tax Increase Prevention Act of 2014, provides that the Secretary shall provide for the application of section 199(b) in cases of a short taxable year or where the taxpayer acquires, or disposes of, the major portion of a trade or business, or the major portion of a separate unit of a trade or business during the taxable year. Section 219(d) of the Tax Increase Prevention Act of 2014 provides that the amendments made by section 219 shall take effect as if included in the provision of the American Jobs Creation Act of 2004 to which they relate. Section 1.199–2(c) provides the current rule for acquisitions and dispositions.

Section 1.199–2(c) currently provides that if a taxpayer (a successor) acquires a trade or business, the major portion of a trade or business, or the major portion of a separate unit of a trade or business from another taxpayer (a predecessor), then, for purposes of computing the respective section 199 deduction of the successor and of the predecessor, the W–2 wages paid for that calendar year shall be allocated between the successor and the predecessor based on whether the wages are for employment by the successor or for employment by the predecessor. Thus, the W–2 wages are allocated based on whether the wages are for employment for a period during which the employee was employed by the predecessor or for employment for a period during which the employee was employed by the successor. The W–2 wage allocation under the current regulations is made regardless of which permissible method is used by a predecessor or a successor for reporting wages on Form W–2, as provided in Rev. Proc. 2004–53 (2004–2 CB 320) (see § 601.601(d)(2) of this chapter). Section 1.199–2(e)(1) provides that under section 199(b)(2), the term *W–2 wages* means, with respect to any person for any taxable year of such person, the sum of the amounts described in section 6051(a)(3) and (8) paid by such person with respect to employment of employees by such person during the calendar year ending during such taxable year.

Rev. Proc. 2006–47 (2006–2 CB 869) (see § 601.601(d)(2)) is the currently effective guidance providing methods of calculating W–2 wages and related rules for purposes of section 199(b). Section 6.02(A) of Rev. Proc. 2006–47 provides that the amount of W–2 wages for a taxpayer with a short taxable year includes only those wages subject to Federal income tax withholding that are reported on Form W–2, ''Wage and Tax Statement,'' for the calendar year ending with or within that short taxable year.

In certain situations, a short taxable year may not include a calendar year ending within such short taxable year. Section 1.199–2(c) of the current regulations does not address these situations and does not reflect the amendment made by the Tax Increase Prevention Act of 2014. In order to provide guidance on the application of section 199(b)(3) to a short taxable year that does not include a calendar year ending within the short taxable year, the IRS and the Treasury Department are revising the regulations to address these situations. To provide immediate effect, the IRS and the Treasury Department are issuing these regulations as temporary regulations. These temporary regulations apply solely for purposes of section 199.

Explanation of Provisions

The final regulations issued in connection with these temporary regulations remove the current language of § 1.199–2(c) and replace it with a cross reference to these temporary regulations. In the place of the current language, these temporary regulations provide rules for calculating W–2 wages for purposes of the W–2 wage limitation in the case of an acquisition or disposition of a trade or business, the major portion of a trade or business, the major portion of a separate unit of a trade or business during the taxable year, or a short taxable year. Specifically, these temporary regulations provide a rule for acquisitions and dispositions if one or more taxpayers may be considered the employer of the employees of the acquired or disposed of trade or business during that calendar year. In that case, the temporary regulations provide that the W–2 wages paid during the calendar year to employees of the acquired or disposed of trade or business are allocated between each taxpayer based on the period during which the employees of the acquired or disposed of trade or business were employed by the taxpayer.

These temporary regulations also provide a rule to apply in the case of a short taxable year in which there is no calendar year ending within such short taxable year (short-taxable-year rule). Wages paid by a taxpayer during the short taxable year to employees for employment by such taxpayer are treated as W–2 wages for such short taxable year for purposes of section 199(b)(1).

These temporary regulations also describe types of transactions that are considered either an acquisition or disposition for purposes of section 199(b)(3). Specifically, these temporary regulations provide that an acquisition or disposition includes an incorporation, a formation, a liquidation, a reorganization, or a purchase or sale of assets.

These regulations also contain cross references to § 1.199–2(a), (b), (d), and (e). The IRS and the Treasury Department observe that these rules continue to apply to taxpayers that use these temporary regulations. For example, the non-duplication rule of § 1.199–2(d) applies such that a taxpayer that includes wages as W–2 wages based on these temporary regulations, including by filing an amended return for a short taxable year, may not treat those wages as W–2 wages for any other taxable year. Also, wages qualifying as W–2 wages of one taxpayer

based on these temporary regulations cannot be treated as W–2 wages of another taxpayer.

The temporary regulations are applicable for taxable years beginning on or after August 27, 2015 and expire on August 24, 2018. A taxpayer may apply § 1.199–2T(c) to taxable years for which the limitations for assessment of tax has not expired beginning before August 27, 2015.

Special Analyses

Certain IRS regulations, including this one, are exempt from the requirements of Executive Order 12866 of, as supplemented and reaffirmed by Executive Order 13563. Therefore, a regulatory assessment is not required. It also has been determined that section 533(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations. For the applicability of the Regulatory Flexibility Act (5 U.S.C. chapter 6) refer to the Special Analyses section of the preamble to the cross-reference notice of proposed rulemaking published in the Proposed Rules section in this issue of the **Federal Register**. Pursuant to section 7805(f) of the Code, these regulations have been submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact on small business.

Drafting Information

The principal author of these regulations is James A. Holmes, Office of Associate Chief Counsel (Passthroughs and Special Industries). However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Adoption of Amendment to the Regulations

Accordingly, 26 CFR part 1 is amended as follows:

PART 1—INCOME TAXES

Paragraph 1. The authority citation for part 1 is amended by adding entries in numerical order to read in part as follows:

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

Section 1.199–2T also issued under 26 U.S.C. 199(b)(3).

* * * * *

Par. 2. Section 1.199–0 is amended by revising the entry for § 1.199–2(c) and adding entries for §§ 1.199–2(c)(1), (c)(2), and (c)(3), and 1.199–8(i)(10) to read as follows:

§ 1.199–0 Table of contents.

* * * * *

§ 1.199–2 Wage limitation.

* * * * *

(c) Acquisitions, dispositions, and short taxable years.

(1) Allocation of wages between more than one taxpayer.

(2) Short taxable years.

(3) Operating rules.

(i) Acquisition or disposition.

(ii) Trade or business.

* * * * *

§ 1.199–8 Other rules.

* * * * *

(i) * * *

(10) Acquisitions, dispositions, and short taxable years.

* * * * *

Par. 3. Section 1.199–2 is amended by revising paragraph (c) to read as follows:

§ 1.199–2 Wage limitation.

* * * * *

(c) [Reserved]. For further guidance see § 1.199–2T(c).

* * * * *

Par. 4. Section 1.199–2T is added to read as follows:

§ 1.199–2T Wage limitation (temporary).

(a) through (b) [Reserved]. For further guidance, see § 1.199–2(a) through (b).

(c) *Acquisitions, dispositions, and short taxable years*—(1) *Allocation of wages between more than one taxpayer.* For purposes of computing the section 199 deduction of a taxpayer, in the case of an *acquisition or disposition* (as defined in paragraph (c)(3)(i) of this section) of a *trade or business* (as defined in paragraph (c)(3)(ii) of this section) that causes more than one taxpayer to be an employer of the employees of the acquired or disposed of trade or business during the calendar year, the W–2 wages of the taxpayer for the calendar year of the acquisition or disposition are allocated between each taxpayer based on the period during which the employees of the acquired or disposed of trade or business were employed by the taxpayer, regardless of which permissible method is used for reporting W–2 wages on Form W–2, ''Wage and Tax Statement.'' For this purpose, the period of employment is determined consistently with the principles for determining whether an individual is an employee described in § 1.199–2(a)(1).

(2) *Short taxable years.* If a taxpayer has a short taxable year that does not contain a calendar year ending during such short taxable year, wages paid to employees for employment by such taxpayer during the short taxable year are treated as W–2 wages for such short taxable year for purposes of § 1.199–2(a)(1) (if the wages would otherwise meet the requirements to be W–2 wages under § 1.199–2 but for the requirement that a calendar year must end during the short taxable year).

(3) *Operating rules*—(i) *Acquisition or disposition.* For purposes of this paragraph (c), the term *acquisition or disposition* includes an incorporation, a formation, a liquidation, a reorganization, or a purchase or sale of assets.

(ii) *Trade or business.* For purposes of this paragraph (c), the term *trade or business* includes a trade or business, the major portion of a trade or business, or the major portion of a separate unit of a trade or business.

(iii) *Application to section 199 only.* The provisions of this section apply solely for purposes of section 199 of the Internal Revenue Code.

(d) through (e) [Reserved]. For further guidance, see § 1.199–2(d) through (e).

Par. 5. Section 1.199–8 is amended by adding paragraph (i)(10) to read as follows:

§ 1.199–8 Other rules.

* * * * *

(i) * * *

(10) *Acquisitions, dispositions, and short taxable years.* [Reserved]. For further guidance, see § 1.199–8T(i)(10).

Par. 6. Section 1.199–8T is added to read as follows:

§ 1.199–8T Other rules (temporary).

(a) through (h) [Reserved]. For further guidance, see § 1.199–8(a) through (h).

(i) *Effective/applicability dates.* (1) through (9) [Reserved]. For further guidance, see § 1.199–8(i)(1) through (9).

(10) *Acquisitions, dispositions, and short taxable years.* Section 1.199–2T(c) is applicable for taxable years beginning on or after August 27, 2015. A taxpayer may apply § 1.199–2T(c) to taxable years for which the limitations for assessment of tax has not expired beginning before August 27, 2015.

(11) *Expiration date.* The applicability of § 1.199–2T(c) expires on August 24, 2018.

John M. Dalrymple,

Deputy Commissioner for Services and Enforcement.

Approved: May 29, 2015.

Mark J. Mazur,

Assistant Secretary of the Treasury (Tax Policy).

[FR Doc. 2015–20770 Filed 8–26–15; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2015–0742]

Drawbridge Operation Regulation; Gallants Channel, Beaufort, NC

AGENCY: Coast Guard, DHS.

ACTION: Notice of deviation from drawbridge regulations.

SUMMARY: The Coast Guard has issued a temporary deviation from the operating schedule that governs the US 70 (Grayden Paul) Bridge across Gallants Channel, mile 0.1, at Beaufort, NC. This temporary deviation allows the draw bridge to remain in the closed to navigation position to accommodate The Neuse Riverkeeper Foundation Triathlon participants to safely complete their race without interruptions from bridge openings.

DATES: This deviation is effective from 10 a.m. to 1:30 p.m. on September 12, 2015.

ADDRESSES: The docket for this deviation, [USCG–2015–0742] is available at *http://www.regulations.gov.* Type the docket number in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this deviation. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary deviation, call or email Ms. Kashanda Booker, Bridge Administration Branch Fifth District, Coast Guard; telephone (757) 398–6227, email *Kashanda.l.booker@uscg.mil.* If you have questions on reviewing the docket, call Cheryl Collins, Program Manager, Docket Operations, 202–366–9826.

SUPPLEMENTARY INFORMATION: The event director for the Neuse Riverkeeper Foundation Triathlon, with approval from the North Carolina Department of Transportation, owner of the drawbridge, has requested a temporary deviation from the operating schedule to accommodate the Neuse Riverkeeper Foundation Triathlon.

The US 70 (Grayden Paul) Bridge operating regulations are set out in 33 CFR 117.823. The US 70 (Grayden Paul) Bridge across Gallants Channel, mile 0.1, a double-leaf bascule bridge, in Beaufort, NC has a vertical clearance in the closed position of 13 feet above mean high water.

Under this temporary deviation, the drawbridge will be allowed to remain in the closed-to-navigation position from 10 a.m. to 1:30 p.m. on Saturday, September 12, 2015 while race participants are competing in the Neuse Riverkeeper Foundation Triathlon.

The majority of the vessels that transit the bridge this time of the year are recreational boats. Vessels able to pass under the bridge in the closed position may do so at anytime and are advised to proceed with caution. The bridge will be able to open for emergencies and there is no alternate route for vessels to pass. The Coast Guard will also inform the users of the waterways through our Local and Broadcast Notices to Mariners of the change in operating schedule for the bridge so that vessels can arrange their transits to minimize any impact caused by the temporary deviation.

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

Dated: August 21, 2015.

Hal R. Pitts,

Bridge Program Manager, Fifth Coast Guard District.

[FR Doc. 2015–21163 Filed 8–26–15; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2015–0792]

Drawbridge Operation Regulation; Sacramento River, Freeport, CA

AGENCY: Coast Guard, DHS.

ACTION: Notice of deviation from drawbridge regulation.

SUMMARY: The Coast Guard has issued a temporary deviation from the operating schedule that governs the Sacramento County highway bridge across Sacramento River, mile 46.0, at Freeport, CA. The deviation is necessary to allow the bridge owner to replace bridge counterweight bolts. This deviation allows single leaf operation of the double bascule highway bridge during the deviation period.

DATES: This deviation is effective without actual notice from August 27, 2015 to 6 a.m. on September 11, 2015. For the purposes of enforcement, actual notice will be used from 8 p.m. on August 17, 2015, until August 27, 2015.

ADDRESSES: The docket for this deviation, [USCG–2015–0792], is available at *http://www.regulations.gov.* Type the docket number in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this deviation. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary deviation, call or email David H. Sulouff, Chief, Bridge Section, Eleventh Coast Guard District; telephone 510–437–3516, email *David.H.Sulouff@uscg.mil.* If you have questions on viewing the docket, call Cheryl Collins, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION: The County of Sacramento has requested a temporary change to the operation of the Sacramento County highway bridge, a double bascule drawbridge, mile 46.0, over Sacramento River, at Freeport, CA. The drawbridge navigation span provides 29 feet vertical clearance above Mean High Water in the closed-to-navigation position. In accordance with 33 CFR 117.189(b), the draw opens on signal from May 1 through September 30 from 9 a.m. to 5 p.m. At all other times, the draw shall open on signal if at least four hours notice is give to the drawtender at the Rio Vista Bridge across the Sacramento River, mile 12.8. Navigation on the waterway is recreational and commercial.

Single leaf operation of the Sacramento County highway drawbridge will occur from 8 p.m. on August 17, 2015 to 6 a.m. on September 11, 2015, to allow the bridge owner to replace corroded counterweight bolts. This temporary deviation has been coordinated with the waterway users. No objections to the proposed temporary deviation were raised.

Vessels able to pass through the bridge in the closed position may do so at any time. The bridge will be able to open for emergencies with one leaf in full operational status. There is no alternate route for vessels to pass through the bridge in the closed position. The Coast Guard will also inform waterway users through our Local and Broadcast Notices to Mariners

of the change in operating schedule for the bridge so that vessels can arrange their transits to minimize any impact caused by the temporary deviation.

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

Dated: August 13, 2015.

D.H. Sulouff,

District Bridge Chief, Eleventh Coast Guard District.

[FR Doc. 2015–21300 Filed 8–26–15; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2014–0082]

RIN 1625–AA00

Safety Zones; Cleveland Dragon Boat Festival and Head of the Cuyahoga, Cuyahoga River, Cleveland, OH

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is establishing regulations for annual, combined marine events that require the establishment of a temporary safety zone within the Captain of the Port Zone Buffalo on the Cuyahoga River, Cleveland, OH. This safety zone regulation is necessary to protect the surrounding public, spectators, participants, and vessels from the hazards associated with the rowing regatta in the narrow waterway of the Cuyahoga River. This rule is intended to restrict vessels annually from a portion of the Cuyahoga River for up to 9 hours during the combined Dragon Boat Festival and the Head of the Cuyahoga Regatta.

DATES: This rule is effective September 28, 2015.

ADDRESSES: Documents mentioned in this preamble are part of docket [USCG–2014–0082]. 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 LT Stephanie Pitts, Chief of Waterways Management, U.S. Coast Guard Marine Safety Unit Cleveland; telephone 216–937–0128, email *Stephanie.m.pitts@uscg.mil.* If you have questions on viewing the docket, call Ms. Cheryl Collins, Program Manager, Docket Operations, telephone 202–366–9826 or 1–800–647–5527.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

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

A. Regulatory History and Information

The Head of the Cuyahoga (HOTC) rowing regatta has occurred annually for over a decade and the Dragon Boat Festival for the last 8 years. In response to past years' events, the Coast Guard established a temporary safety zone to protect the boating public. For example, in 2013, the Captain of the Port Buffalo initiated a rulemaking (78 FR 42736, July 17, 2013) to ensure the safety of spectators and vessels during the rowing event. The safety zone in this final rule is identical in size, location, and effect as that established by the 2013 rulemaking.

B. Basis and Purpose

As mentioned in the ''Regulatory History and Information'' section, the HOTC is an annual rowing regatta that has taken place for over a decade. The HOTC takes place on the Cuyahoga River along a 4800 meter course and attracts numerous rowing clubs and programs from across the U.S. Typically, the event occurs on the third Saturday of September between the hours of 7 a.m. and 4 p.m. In 2014, the HOTC occurred between 6 a.m. and 4 p.m. on September 20th.

In conjunction with the HOTC, the Seventh Annual Cleveland Dragon Boat Festival will take place from Superior/Nautica Bend to just north of the Detroit Superior Viaduct Bridge. The Dragon Boat festival will feature three head-to-head races being held over the course of the day.

The Captain of the Port Buffalo has determined that the HOTC and the Cleveland Dragon Boat Festival rowing events present significant hazards to public spectators and participants.

C. Discussion of Comments, Changes and the Final Rule

We received one comment on the NPRM (79 FR 24656). This comment requested the time of enforcement be changed from 10 hours to 9 hours and to begin at 7 a.m. in lieu of the proposed 6 a.m. and still end at 4 p.m. as originally proposed. This change was requested for the better facilitation of trade on the Cuyahoga River. Of note, the commenter, Great Lakes Carriers Association noted that they completed a memorandum of agreement with the Cuyahoga River rowing foundation to address this very issue and to formalize the agreement between them to better allow for diverse use of the river without hampering trade and vital to the local economy. The Coast Guard, upon reviewing the comment considers the change to the proposal to be in the best interest of this rule and has amended the final rule to be effective for 9 hours, beginning at 7 a.m. and ending at 4 p.m. as requested.

The enforcement date and times for the safety zone that is listed in 33 CFR 165.T09–0082 is to occur on the 3rd Saturday of September of each year and to begin 7 a.m. and end at 4 p.m. For any given year, the Captain of the Port Sector Buffalo will provide notice to the public by publishing a Notice of Enforcement in the **Federal Register**, as well as, issuing a Broadcast Notice to Mariners.

Entry into, transiting, or anchoring within the safety zones identified in § 165.T09–0082 will be prohibited unless authorized by the Captain of the Port Buffalo or his on-scene representative. The Captain of the Port or his on-scene representative may be contacted via VHF Channel 16.

D. Regulatory Analyses

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

1. Regulatory Planning and Review

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

2. Impact on Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered the impact of this rule on small entities. The Coast Guard received no comments from the Small Business Administration on this rule. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

This rule would affect the following entities, some of which might be small entities: The owners and operators of vessels intending to transit or anchor in the safety zone while the zone is being enforced. The safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons: Each safety zone in this rule will be in enforced for no more than 9 hours in any 24 hour period and enforced only once per year and will be in areas with low commercial vessel traffic. Furthermore, this safety zone has been designed to mitigate the delay to traffic by shortening the enforcement period. In the event that a safety zone affects shipping, commercial vessels may request permission from the Captain of the Port Buffalo or his or her designated representative to transit the safety zone or remain in the safety zone during the event.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section above.

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 would 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 would not cause a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

9. Civil Justice Reform

This 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 From Environmental Health Risks

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 would not create an environmental risk to health or risk to safety that might 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 would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

12. Energy Effects

This rule 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 made a preliminary determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule is categorically excluded, under figure 2–1, paragraph (34)(g), of the Commandant Instruction because it involves the establishment of a safety zone.

An environmental analysis checklist and a categorical exclusion determination are available in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from this rule.

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 165.T09–0082 to read as follows:

§ 165.T09–0082 Safety Zone; Cleveland Dragon Boat Festival and Head of the Cuyahoga, Cuyahoga River, Cleveland, OH.

(a) *Location.* The following area is a safety zone: All waters of the Cuyahoga River, Cleveland, OH between a line drawn perpendicular to the river banks from position 41°29′55″ N., 081°42′23″ W. (NAD 83) just past the Detroit-Superior Viaduct bridge at MM 1.42 of the Cuyahoga River south to a line drawn perpendicular to the river banks at position 41°28′32″ N., 081°40′16″ W. (NAD 83) just south of the Interstate 490 bridge at MM 4.79 of the Cuyahoga River.

(b) *Enforcement period.* The third Saturday of September each year from 7 a.m. to 4 p.m.

(c) *Definitions.* The following definitions apply to this section:

(1) ''On-scene Representative'' means any Coast Guard commissioned, warrant, or petty officer designated by the Captain of the Port Buffalo to monitor a safety zone, permit entry into the zone, give legally enforceable orders to persons or vessels within the zones, and take other actions authorized by the Captain of the Port.

(2) ''Public vessel'' means vessels owned, chartered, or operated by the United States, or by a State or political subdivision thereof.

(d) *Regulations.* (1) In accordance with the general regulations in § 165.23 of this part, entry into, transiting, or anchoring within this safety zone identified in paragraph (a) of this section is prohibited unless authorized by the Captain of the Port Buffalo or his designated on-scene representative.

(2) The safety zone identified in paragraph (a) of this section is closed to all vessel traffic, except as may be permitted by the Captain of the Port Buffalo or his designated on-scene representative.

(3) Vessel operators desiring to enter or operate within the safety zone must contact the Captain of the Port Buffalo or his on-scene representative to obtain permission to do so. The Captain of the Port Buffalo or his on-scene representative may be contacted via VHF Channel 16. Vessel operators given permission to enter or operate in the safety zone must comply with all directions given to them by the Captain of the Port Buffalo, or his on-scene representative.

(4) Additionally, all vessels over 65 feet intending to transit, moor or conduct operations to include loading or discharging of cargo or passengers in the Cuyahoga River while the safety zone is being enforced should request permission from the COTP or his/her designated representative at least 12 hours before the zone is established.

(e) *Exemption.* Public vessels, as defined in paragraph (c) of this section, are exempt from the requirements in this section.

(f) *Waiver.* For any vessel, the Captain of the Port Buffalo or his designated representative may waive any of the requirements of this section, upon finding that operational conditions or other circumstances are such that application of this section is unnecessary or impractical for the purposes of public or environmental safety.

Dated: August 7, 2015.

B.W. Roche,

Captain, U.S. Coast Guard, Captain of the Port Buffalo.

[FR Doc. 2015–21301 Filed 8–26–15; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR Part 7

[NPS–CUVA–18292; PPMWCUVAR0, PPMRSNR1Z.Y00000]

RIN 1024–AE18

Special Regulations; Areas of the National Park System, Cuyahoga Valley National Park, Bicycling

AGENCY: National Park Service, Interior.

ACTION: Final rule.

SUMMARY: The rule authorizes and allows for the management of bicycle use on certain new trails within Cuyahoga Valley National Park. The National Park Service general regulation pertaining to bicycles requires promulgation of a special regulation to authorize bicycle use on new trails constructed outside of developed areas.

DATES: The rule is effective September 28, 2015.

FOR FURTHER INFORMATION CONTACT: Lisa Petit, Chief of Resource Management, Cuyahoga Valley National Park, (440) 546–5970.

SUPPLEMENTARY INFORMATION:

Background

Legislation and Purposes of Cuyahoga Valley National Park

On December 27, 1974, President Gerald Ford signed Pub. L. 93–555 creating Cuyahoga Valley National Recreation Area for the purpose of ''preserving and protecting for public use and enjoyment, the historic, scenic, natural, and recreational values of the Cuyahoga River and the adjacent lands of the Cuyahoga Valley and for the purpose of providing for the maintenance of needed recreational open space necessary to the urban environment.'' In 2000, Congress redesignated Cuyahoga Valley National Recreation Area as Cuyahoga Valley National Park (CUVA or Park) with the passage of the Department of the Interior and Related Agencies Appropriations Act (Pub. L. 106–291).

CUVA is an important national resource within a predominantly metropolitan region, where the Park is visited by approximately 2,500,000 people annually. Located in Cuyahoga and Summit Counties, Ohio, and situated between the cities of Cleveland and Akron, CUVA includes approximately 33,000 acres of land, with 19,000 acres under the administration of the National Park Service (NPS). The Park contains significant resources, including the Cuyahoga River Valley and its associated ecological functions, rich cultural resources and landscapes, and a variety of recreational and outdoor use opportunities.

In the 1930's the Cuyahoga Valley provided a respite for urban dwellers from Cleveland and Akron. During this time period, private estates in the Cuyahoga Valley had established trails and carriage roads for their private recreational enjoyment, including places like the Old Carriage trail area and the Wetmore trails. Over the years, these lands and other park lands were incorporated into the Cleveland Metroparks and Summit Metro Parks that are now part of what is designated as CUVA. Two significant trail corridors accelerated the recreational connections to the Valley: The conversion of an abandoned railroad bed to the Bike and Hike Trail in 1970 and the construction of the Towpath Trail in the late 1980's and early 1990's. Many of the trails from the earliest days of Cuyahoga Valley as a recreation destination remain today for visitors to enjoy and share the

experience that has remained for over a century.

The Park's General Management Plan/Environmental Impact Statement (GMP) confirms the purpose, significance, and special mandates of the Park. According to the Park's GMP, one of the significant purposes of CUVA is to ''[preserve] a landscape reminiscent of simpler times, a place where recreation can be a gradual process of perceiving and appreciating the roots of our contemporary existence.'' The GMP also provides direction for park management during land acquisition and provides a framework for NPS managers to use when making decisions about how to conserve the Park's resources and manage visitor uses in the Park. Resource preservation for compatible recreational use is the overall concept for management and development of the Park.

Current Status of Trails and Associated Facilities

Regional recreational trail networks have blossomed across Northeastern Ohio, increasing demands for additional trail connections, new trail uses, and expanded recreational opportunities. Today, the Park contains approximately 175 miles of trails, approximately 97 miles of which are managed by the NPS. The NPS trail system consists of three long-distance trails—the Towpath Trail, Buckeye Trail and Valley Bridle Trail—and eleven smaller localized trail systems with separate access points. The park currently has one limited community connector through the Old Carriage Trail connector trail in the northern portion of the park and has some portions of the primary roadways improved for bike use. Metropark partners provide five additional trail systems within their units inside CUVA, and another trail, the Buckeye Trail, is managed by the Buckeye Trail Association. Currently, the Park provides access to all its trails through 25 trailheads and from the four primary Visitor Contact Centers.

These trails provide for various uses, including 34 miles for hiking and trail running only, 22 miles for multipurpose biking and hiking, 17 miles for cross-country skiing, and 35 miles for equestrian riding. Nonetheless, requests for new trail uses to meet the needs of growing user groups have become more frequent in recent years. Technologies exist today (such as personal mobility devices) that provide new means to enjoy trails. Walk-in camping is a desired amenity that recently was approved for the first time in the park. Trail running is increasing in popularity, and biking has grown into a major recreational activity within the Cuyahoga Valley.

Comprehensive Trail Management Plan

In 1985, the Park's first Trail Management Plan was developed as the primary document to initiate many trails in the Park. The 1985 Trail Plan identified 105 miles of existing trails and proposed and evaluated 115 miles of new trail. An additional 46 miles of trails were identified for future consideration but were not evaluated in the 1985 Trail Plan. In 2013, CUVA completed a Comprehensive Trails Management Plan/Environmental Impact Statement (TMP/EIS) to guide the expansion, restoration, management, operations, and use of the trail system and its associated amenities over the next 15 years, while keeping with the purpose, mission, and significance of the Park. Some trails proposed in the 1985 Trail Plan but not yet implemented were considered as part of the TMP/EIS.

The goals of the TMP/EIS were to develop a trail network that:

- Provides experiences for a variety of trail users;
- shares the historic, scenic, natural and recreational significance of the Park;
- minimizes impacts to the park's historic, scenic, natural and recreational resources;
- can be sustained; and
- engages cooperative partnerships that contribute to the success of the Park's trail network.

The Park conducted internal scoping with Park staff, regional park district partners, and the Conservancy for Cuyahoga Valley National Park and external scoping, including the mailing and distribution of four separate newsletters, nine public meetings, and a 60-day public comment period. As a result of this process, eight alternatives, including a ''No Action Alternative,'' for the Park's Trail Management Plan were developed.

The Record of Decision (ROD), for the TMP/EIS, signed by the NPS Midwest Regional Director on August 8, 2013, identified the Preferred Alternative 5 as the Selected Alternative for implementation. Under this Alternative, approximately 14.5 miles of new bicycle trails could be constructed in undeveloped regions of the park and authorized by special regulations for bicycle use. The Alternative also considers approximately eight additional miles of existing trail or roadways that could be authorized for bicycle use in the future. The construction and authorization of these trails for bicycle use will be conditional on funding and subject to the development of other facilities or activities (including evaluation of resource impacts) conducted prior to implementation.

Due to the age and conceptual nature of the 1977 GMP, a 2013 Foundation Document was developed for the Park that identifies active recreation and implementation of the TMP/EIS as an objective to meets its goals. The TMP/EIS and ROD may be viewed online at *http://parkplanning.nps.gov/cuyahogatrailplan.*

Construction and Management of the Bicycle Trails

Many of the proposed bicycle trails have not yet been built and will not be immediately open for use. An Implementation Strategy is under development to prioritize trail projects and assemble the additional planning, funding, staffing, project management, and monitoring that will be needed to accomplish them successfully. The Trails Forever Program, administered by the Park in partnership with the Conservancy for Cuyahoga Valley National Park, will be the overarching program under which this implementation strategy will be realized.

Volunteers for trail work at the Park will continue to be a vital component of trail stewardship in the Park. Management and coordination of volunteers will continue through the joint Volunteer Program office of the Park and the Conservancy for Cuyahoga Valley National Park. The use of Park staff and the existing volunteer trail groups to monitor and mitigate the environmental impacts of bicycle use on these trails will ensure that the trails are maintained in good condition and that any issues of concern are immediately brought to the attention of Park management. In addition, the Park will continue to update its Sign Plan and upgrade park and trail signs accordingly. As trail signs are updated, trail accessibility information for each trail will be made available to the public.

Notice of Proposed Rulemaking

On October 14, 2014 the NPS published a proposed rule that would authorize and allow for management of bicycle use on certain new trails within CUVA, (79 FR 61587). The proposed rule was available for a 60-day public comment period, from October 14, 2014 through December 15, 2014. Comments were accepted through the mail, by hand delivery, and through the Federal eRulemaking Portal: *http://www.regulations.gov.*

Summary of and Responses to Public Comments

The NPS received 300 public comments during the comment period. Responses to the comments mostly referred to the *TMP/EIS* completed in 2013. Of these comments, 276 expressed support for the proposed rule. One supportive comment was from an organization, the National Parks Conservation Association, and the rest were from individuals. There were three commenters who had a neutral stance and 21 comments submitted in opposition to the proposed rule. There were no opposing responses from organizations.

Supporting Comments

The 276 supporting comments expressed eight central themes:

Engaging More Park Users Including Youth and Families

The authorization of off-road bicycle use in CUVA will expand the utilization of the park by new users, including youth and families, by providing new and exciting opportunities to participate in outdoor recreation activities. Providing younger members of society with off-road bicycling opportunities encourages them to develop a sense of pride and ownership in the trails they ride and maintain, creating the next generation of stewards. It is well substantiated that there are many individuals that enjoy this activity in other parks and on other public lands outside of the region with only a few areas available within the region. Recent years have seen new trails within Cleveland Metroparks and Summit Metro Parks and the activity continues to grow in popularity as evidenced by an increase in bike sales.

Healthy Lifestyles/Enjoying Nature

Allowing off-road bicycle use is important for public health because it contributes to healthy, active lifestyles and getting people out into nature. Bike riding is well established as a significant form of exercise that contributes to personal health and well-being. By providing for greater use of bicycles on trails more people can benefit from this form of exercise as well enjoying time in the out of doors

Tourism & Economic Development

Allowing off-road bicycle use is an important draw for tourism and a catalyst for economic development in and around CUVA and the northeast Ohio region. CUVA serves increasingly as a destination for out of town visitors crossing the country and visiting national parks. With the addition of off-road single track bike trails, the park and region will be even more inviting as a destination for extended-stay excursions. Bike trails are well known to be a quality of life indicator and an attraction for young professionals and others looking to relocate for jobs and family.

Volunteerism & Stewardship

Off-road bicycle use is environmentally appropriate and can contribute to protection of natural and cultural resources. This has been demonstrated both outside of our region and within our area, where many individuals who are avid off-road bicyclists frequently volunteer for trail maintenance and stewardship activities. The bicycling community provides extensive education to encourage volunteerism and environmental stewardship. This education includes trail etiquette to facilitate coexistence among user groups, and to model appropriate use of the trails systems for improved safety. Local park districts within the surrounding communities have developed a volunteer network of trail stewards that maintain and patrol trails and report when conditions are not favorable for riding and/or when closing a trail is needed to prevent damage.

Planning, Sustainability, Safety

The NPS is a trusted source for protection of natural resources and included a robust planning process and Sustainable Trail Design Guidelines in the preparation of the TMP/EIS. These activities reinforce the communities' knowledge and appreciation for appropriate planning processes, and provide leadership in the execution of sustainable trail building practices that will benefit other public land stewards in the region. Safety is a primary design criterion for trail improvements within the park and is central to considerations for operational and utilization decisions.

Increased Access and Trail Linkages

Allowing off-road bicycle use will make remote parts of CUVA more accessible to some visitors who want to experience the full breadth of resources in the park. Additionally, there will be opportunities for additional linkages and looped systems within the existing trail network.

Community Development & Partnerships

Bicycle trails in CUVA have been the center point for partnerships and community development, such as the volunteer efforts of the Boy Scouts to build the Arrowhead Trail. If permanent access for bicycle use is allowed, these relationships will continue to flourish, building a sense of stewardship among trail users and park staff.

Resource Protection

The construction of single track off-road bicycle trails will exemplify sustainable construction practices and provide an educational opportunity to the public and volunteers participating in construction and maintenance. This exposure will enable users to better understand the sensitivity of natural resources and how proper design practices are necessary for protection and conservation. Volunteers can become engaged in the on-going maintenance and consequently learn firsthand the proper construction and maintenance techniques to protect natural resources. This has been demonstrated both outside of our region and within our area where many individuals who are avid off-road bicyclists frequently volunteer for trail maintenance and stewardship activities.

Some commenters supported the new bicycle rule but also had questions, asked for clarifications, or proposed ideas for which the NPS has prepared responses. These comments are paraphrased and answered below:

1. *Comment:* I would propose that a mountain bike trail be built on Latta Lane where homes were previously located. This area is flat and would not need extensive construction to create a parking space.

Response: Latta Lane has been proposed as a designated camping area in the Park's *Boston Mills Area Conceptual Development Plan and Environmental Assessment* (2013). No off-road bicycle trails are planned for this area.

2. *Comment:* ''Outside of developed areas'' needs to be clarified.

Response: Developed area is defined at 36 CFR 1.4, and means roads, parking areas, picnic areas, campgrounds, or other structures, facilities or lands located within development and historic zones depicted on the park area land management and use map. Trails in developed areas are typically multi-use trails, with improved surface pathways that serve several types of users including bicyclists and hikers. Off-road bicycle trails are located in undeveloped areas of a park, designed with a natural surface and designated for cross-country non-motorized bicycle use that can also be utilized for hiking or running.

3. *Comment:* I would also love to see Thru Hiking and Thru Biking such as the Chesapeake and Ohio Canal NP. I

would also like to see easier put in and take out for paddling.

Response: Within the Park, the Ohio & Erie Canal Towpath Trail and the Summit Metro Park's Bike & Hike Trail currently offer thru biking and hiking with existing and proposed connections between the two. The Buckeye Trail offers thru hiking as well. A water trail with launch sites has been proposed in *TMP/EIS.*

4. *Comment:* I'm not sure what the ''cross country'' designation for the High Meadow Trail means. Does this mean that it is for foot and bicycle use? Also for that trail, where are the end points of the trail? A little more description in the proposal would be helpful.

Response: In the *TMP/EIS,* High Meadow is a proposed 5-kilometers (3.1 miles) loop trail for cross-country skiing training and competitive purposes, located west of Blue Hen Falls along Boston Mills Road. The trail would link to the Buckeye Trail for hike connections and is proposed for *conditional* use as an off-road bicycle trail. Conditional use of High Meadow is subject to evaluation by the Park of the following activities: Implementation of the proposed East Rim Trail and its success to meet the goals and objectives of the Trail Plan, Cleveland Metroparks' implementation of off-road bicycle use on the Buckeye Trail portion owned by them that may terminate at NPS lands, and evaluation of the potential impacts of bicycle use on the NPS portion of the Buckeye Trail. Because no other conditional trails are included in this rule, and because the use of High Meadow Trail for bicycling is contingent on other conditional trails being established, this trail is being withdrawn from and will not be authorized for bicycle use in this final rule.

5. *Comment:* Can the superintendent deny bicycle access at any time despite information included in the EIS, and that any new trail openings will require a separate approval? Was the scope of the EIS only to allow the construction of the trails, irrespective of the intended use of the trails? Or is this language to assure that, in the case of changing/degrading conditions over time, that some person has the authority to suspend use of the trails until solutions can be implemented?

Response: New trail construction requires additional compliance or agency review prior to implementation, subject to federal and park regulations. The *TMP/EIS* developed a blueprint that will guide the expansion, restoration, management, operations and use of the trail system and its associated amenities, over the next 15 years, in keeping with the purpose, mission and significance of CUVA. As this plan is implemented, all trails and their uses will be evaluated and monitored to ensure resource protection, visitor safety, and operational sustainability. The Superintendent of CUVA will have the authority to close or restrict use of trails after taking into consideration public health and safety, resource protection, and other management activities and objectives.

6. *Comment:* I believe there needs to be stricter regulation of bike trails than hiker trails. Bikers should stay on these proposed trails that were designed for their use.

Response: All trails will be monitored as per the *Sustainable Trail Guidelines (Appendix C) of the TMP/EIS.* Education, signage and monitoring will help curb straying from the trail tread.

7. *Comment:* I would expect and hope that the Bike and Hike Trail would connect to this [East Rim] trail at several points and also the Towpath could also connect to this at a point or two as well.

Response: Access to the proposed East Rim Trail is from the Bike & Hike Trail. There are existing and proposed connections between the Bike & Hike Trail and the Ohio & Erie Canal Towpath Trail as proposed in the *TMP/EIS.*

8. *Comment:* I hope the mountain bike trails have a variety of difficulty levels—easy, medium and hard—to satisfy the different visitors. I also hope that you offer classes or workshops for the beginning rider. And I would like to see the Carriage Trail re-opened soon!

Response: Trails will be built working with the terrain using the *Sustainable Trail Guidelines* and the goal is to have a variety of difficulty levels. The Park identifies the restoration of the Old Carriage Trail bridges for visitor use within the Trail Plan. The Park continues to seek funding for the design, engineering and construction work required for replacement of three deteriorated, long-span trail bridges. Once this construction work is completed the Old Carriage trail will be opened for public use.

9. *Comment:* ''Mountain bikes just tear up trails'', but in the late fall and all spring, the bridle trails can be completely decimated by horses. There are portions that are not even suitable for hiking, let alone running.

Response: The Park will use the *Sustainable Trail Guidelines* for all trails and implement seasonal closures to protect park resources and to meet the goals of a sustainable trails system in the Park. Seasonal closures will reduce impacts to park resources, minimize risk of tread widening, reduce annual maintenance costs to high-risk areas and provide an improved visitor experience during the drier seasons of the year. Natural resource related seasonal closures will address three primary conditions; wet, muddy conditions, flood events, and wildlife nesting activities. The Park may identify additional resource or operational issues that require seasonal trail closures.

10. *Comment:* Ten miles of single track is much too short. Having volunteered at the park for several years, I'm curious why there are over twice the miles of bridle trails to the proposed single track?

Response: During public scoping of the *TMP/EIS,* many of the trail user groups, particularly the mountain bike and equestrian trail users, desired significantly expanded trail miles within CUVA for their particular use. Given the current level of use, limitations of land ownership and resource conditions, and current, planned or projected regional trail systems available to these user groups, significant expansions were not included in the selected alternative.

11. *Comment:* I would also love to see areas that allowed climbing. There were so many opportunities in the park for climbing.

Response: During the public scoping period of the *TMP/EIS,* the public was invited to provide ideas regarding the future trail system in the Park. Some proposals like rock climbing were outside the scope of the *TMP/EIS* and were not considered. Rock climbing is prohibited in CUVA.

12. *Comment:* If off-road refers to something with a motor I object. Motors do NOT belong in a park.

Response: Off-road motorized vehicles are prohibited by NPS Management Policies and are not permitted on current or proposed park trails.

Neutral Comment

One neutral commenter proposed ideas for which the NPS has prepared a response. The comment is paraphrased and answered below:

Comment: I think the CUVA should limit single-track bike trails within its federal boundaries to this east rim. The plan suggests possible future off road bicycle development along the High Meadow/Buckeye trail area of the CUVA. If the Cleveland Metroparks decides to put in a bike trail in the more remote southern section of the Brecksville Reservation I do not think the CUVA needs to extend that use through federal property. My reasons are as follows: Existing off road trails in Bedford Reservation and in-process

trails at Hampton Hills Metro Park now complement the CUVA's Eastern Rim plan and extend off road bike trail connections at both ends of the park. Development of off road trails in less used portions of the park does isolate them, but the fast pace, rough and probable heavy use alters the localized area. The western rim should be kept as it is—a quieter, more isolated area of the park, where one can experience this geologically interesting portion of the park without off-road biking trails.

Response: In the *TMP/EIS,* High Meadow is a proposed 5-kilometers (3.1 miles) loop trail for cross-country skiing training and competitive purposes, located west of Blue Hen Falls along Boston Mills Road. The trail would link to the Buckeye Trail for hike connections and is proposed for *conditional* use as an off-road bicycle trail. Conditional use of High Meadow is subject to evaluation by the Park of the following activities: Implementation of the proposed East Rim Trail and its success to meet the goals and objectives of the Trail Plan; Cleveland Metroparks' implementation of off-road bicycle use on the Buckeye Trail portion owned by them that may terminate at NPS lands; and evaluation of the potential impacts of bicycle use on the NPS portion of the Buckeye Trail. Because no other conditional trails are included in this rule, and the use of High Meadow Trail for off-road bicycles is contingent on other conditional trails being established, this trail location is being withdrawn from and will not be authorized for bicycle use in this final rule.

Opposing Comments

The 24 comments submitted in opposition to off-road bicycle trails were focused on five primary areas of concern: Impacts on natural resources; User conflicts-safety; User conflicts-visitor experience; NPS operational burden; and Inconsistency with NPS mission.

Impacts on Natural Resources

The most common concern expressed by commenters in opposition to the proposed rule was that off-road bicycles cause serious impacts to natural resources, including wildlife habitat, plants, soils, and water quality.

Representative Comments

(1) Trail building destroys wildlife habitat! It not only destroys the habitat under and next to the trail, but it renders a wide swathe of habitat on either side of the trail useless to the wildlife, due to the presence of people.

(2) Each time a pathway is created, that new opening allows invasive species into that area, both plant and animal.

(3) This is not a good idea. The trails already suffer erosion from heavy use and allowing mountains bikes will only worsen the problem.

(4) Constructing new trails removes vegetation, which fragments habitats, risks destroying important or rare species, and can contribute to high soil erosion, which leads to water contamination.

Response: The analysis of potential adverse effects of trail elements in the selected action is provided in Chapter 4 of the *TMP/EIS.* Impacts of the proposed off-road bicycle trails on wildlife and wildlife habitat, vegetation, soils, and water quality are expected to be relatively minor because of the locations selected, the current ecological conditions, and the use of *Sustainable Trail Guidelines* for planning, design, construction, management and monitoring of all trails. Sensitive habitats including wetlands will be avoided, and trails will be constructed using best practices to minimize adverse impacts such as erosion. As stated in the Record of Decision for the *TMP/EIS,* ''as the NPS implements the actions associated with the selected action, it must protect the park's natural and cultural resources and not impair the quality of the visitor experience. Additionally, bicycle use must be consistent with the protection of the park area's natural, scenic and aesthetic values, safety considerations and management objectives, and not disturb wildlife or park resources. To ensure that this occurs, a consistent set of mitigation measures will be applied to all trail management actions in the park. The NPS will avoid, minimize, and mitigate adverse impacts of trail management actions when practicable. Compliance monitoring and reporting will be part of all mitigation measures. The *Sustainable Trail Guidelines* outline monitoring that will be conducted to detect and arrest resource damage from trail use. In addition, the Superintendent will be authorized to impose closures or restrictions on bicycle trails after taking into consideration public health and safety, resource protection, and other management activities and objectives.

User Conflicts—Safety

Most comments in opposition to the proposed rule expressed concern for safety of hikers sharing trails with off-road bicycles, primarily due to concerns about speed and inconsiderate/intimidating behavior of bikers, as well as a perception that bikers have little regard for authority or regulations.

Representative Comments

(1) If you have ever tried to hike around large, fast-moving pieces of machinery such as bicycles, you know that it is scary and no fun!

(2) I avoid areas used by mountain bikers because, generally speaking, they are rude by not signaling when approaching from behind and scare the ''heck'' out of you. They also speed on the trails and do not have good control of their bikes.

(3) I have enough difficulty on the authorized paved hike and bike trails trying to bird watch or nature study, while dodging inconsiderate bikers too oblivious to issue an approaching warning.

(4) Much of the scenic opportunity seems lost on cyclists who are more concerned with how fast they can get from point A to point B.

(5) Mountain bikers consider themselves renegades with justified use of all public land with impunity.

Response: This rule provides the Superintendent the authority to manage off-road bicycling on trails in undeveloped areas, including the establishment and enforcement of closures, restrictions, and conditions to ensure public safety and protection of park resources. Public scoping provided a variety of ideas regarding trail sharing among different user groups. The Park utilized data and research available on a variety of trail systems to evaluate visitor experience of trail uses, as outlined in the *TMP/EIS.* The information indicated that some trail uses are more compatible together than others. The selected alternative provides opportunities for increased trail sharing among compatible trail uses such as off-road bicycles and hikers, and limits sharing between less compatible trail user groups. The sharing of trails among compatible user groups will assist the Park in meeting goals of the TMP/EIS to minimize the footprint of trails within the Park to protect resources. The *Sustainable Trail Guidelines* outline methods that will be used to monitor visitor carrying capacity on trails. In addition to impacts on natural resources, numbers of different user types on trails and incidents of conflict or accidents will be monitored to determine methods to eliminate conflicts and impacts.

User Conflicts—Visitor Experience

Some commenters expressed specific concerns that off-road bicycles disrupt the quiet and tranquility of the hiking experience.

Representative Comments

(1) Bicyclists inevitably . . . disrupt the peace and tranquility that comes with a National Park experience.

(2) Biking in pristine areas takes away the beauty and quiet of the area.

(3) The serenity and tranquility have forever been transformed into the BMX race course.

(4) Please do not allow mountain bikes in the Cuyahoga Valley Park. It will ruin the sublime, quiet nature of the park, at the expense of walkers and joggers.

Response: The preferred alternative in the *TMP/EIS* was the selected action because it best fulfills the purpose and need for the plan and provides the broadest range of visitor experiences while minimizing impacts to park resources. Most existing trails and proposed new trails will be primarily for hiking and will provide a variety of experiences, including more remote, primitive experiences. Where shared use between off-road bicycles and hikers is planned, park managers will monitor visitor carrying capacity and manage trail use to minimize or eliminate user conflicts and ensure safety. Further, this rule will authorize the Superintendent to impose closures and or establish conditions or restrictions on bicycle trails after taking into consideration public health and safety, resource protection, and other management activities and objectives.

NPS Operational Burden

Many commenters expressed concerns regarding the costs of long-term maintenance of trails. Some concerns were related to there being enough or too many trails in the park already. Comments also included concerns about prioritization of trail work, suggesting more emphasis on improving existing trails before building new trails. Two commenters specifically mentioned that the Old Carriage Trail bridges should be replaced.

Representative Comments

(1) No money should be spent on these new trails until the Bridges on the Old Carriage Trail have been replaced.

(2) You don't seem to be able to maintain the trails that you have now. Much of the buckeye trail through the park would greatly benefit from stabilization projects.

(3) I would . . . request that before proceeding with actual trail construction CUVA consider adopting a method, open for public comment, for determining the priority in which proposed trail changes set forth in the Trail Plan are to be implemented.

(4) I just think that preexisting trails are sufficient and there is no need to create more. Sticking to preexisting trails . . . will not significantly increase trail maintenance as the creation of new trails would.

Response: The TMP/EIS is intended to set a vision for implementation over the next 15 years. Implementation will occur as funding becomes available and projects are prioritized. This Plan will require the NPS to seek a new approach for funding than traditional NPS base and capital budgets. The Conservancy for Cuyahoga Valley National Park assists the park trails through fundraising efforts under the TRAILS FOREVER Program for trail maintenance and capital projects. The creation of a portfolio of funding sources is necessary to accomplish the recommendations set forth in the TMP/EIS and will be part of the Implementation Strategy that is identified in the TMP/EIS. Prioritization of trail projects will emphasize restoration and maintenance of existing trails as well as seeking funding to implement new trails. The Park will continue to work in cooperation with trail stakeholder groups as appropriate in the planning and design process for trails. In addition, the Old Carriage Trail bridges remain a priority for the Park, which continues to pursue funding opportunities to replace the failing bridges.

Inconsistency With NPS Mission

Some commenters expressed concerns that allowing off-road bicycles outside of developed areas was inconsistent with the mission of the NPS and of the CUVA.

Representative Comments

(1) Thought the national park systems were created to preserve the natural biological systems remaining in this land, and not provide an outlet for mechanized thrill seekers. Authorizing such activities is not in keeping with the intent of the national park system, and I urge you to severely limit, or totally ban any such activities on park lands.

(2) The purpose of the park is to preserve nature and enjoy it—not to damage it with deep ruts that create more erosion and mud, etc.

(3) The primary purpose of the national park system is to PRESERVE those remaining bits of wildlife habitat, so that all future generations will still be able to experience it. You are failing to adhere to your mission.

(4) Is the CUVA's main attraction really ''trails''? And should the park want to be characterized that way? What is the desired experience for visitors from other states, for locals who walk or bike casually in the park, for suburban/urban families who visit on weekends? How does the CUVA make itself different from a state park or a metropark or a national recreation area?

Response: The enabling legislation that established CUVA states that the park was created ''To preserve and protect for public use and enjoyment, the historic, scenic, natural and recreational values of the Cuyahoga River and the adjacent lands of the Cuyahoga Valley and for the purpose of providing for the maintenance of needed recreational open space necessary to the urban environment.'' The purpose of the *TMP/EIS* is to develop a blueprint that will guide the expansion, restoration, management, operations and use of the trail system and its associated amenities, over the next 15 years, in keeping with the purpose, mission and significance of CUVA. Since its establishment in 1974, the Park has experienced significant changes in visitation, programs and operations. Outdoor recreation trends have continued to evolve over the past 31 years in how visitors use or would like to use the Park. The additional development of trails and trail facilities will assist in meeting the needs of current and future visitation to the Park's trails.

Changes From the Proposed Rule

After consideration of the public comments, and additional review, the NPS has determined that one substantive change is necessary in the final rule: Removal of the High Meadow Trail from consideration as an off-road bicycle trail. This trail is designated as a cross-country ski trail, with conditional status as a potential off-road bicycle trail. Because no other conditional trails are included in this rule, and the use of High Meadow Trail for off-road bicycles is contingent on other conditional trails being established, this trail location is being withdrawn from and will not be authorized for bicycle use in this final rule.

The Final Rule

To provide visitors with additional recreational bicycling opportunities and in compliance with the provisions of 36 CFR 4.30, this rule will allow the Superintendent to authorize bicycle use on all or portions of each of the following trails:

Trail name	Approximate length	Surface type	Usage type	Description
East Rim	10 miles	Natural surface	Off-road, single-track bicycle.	Approximately ten miles of a loop system trail of varying distances along the east central portion of the Park, north of Old Akron-Peninsula Road and south of Brandywine Falls trailhead, near the Krecjic Restoration Site.
Old Carriage Connector Trail.	0.35 miles	Crushed gravel	Multi-purpose	Extension of existing Old Carriage Road connector to existing Bike and Hike Trail.
Highland Connector Trail.	1.0 miles	Crushed gravel	Multi-purpose	New connector from existing Bike and Hike Trail to existing Towpath Trail on south side of Highland Road, extending on the north side of Highland Road from Towpath to the Vaughn overflow parking area.

After trail construction is completed, but before a trail is authorized for bicycle use, the Superintendent will be required to issue a written determination that the trail is open for public use and that bicycle use is consistent with the TMP/EIS, including implementation of the park's sustainable trail guidelines with monitoring and mitigation through adaptive management. This will ensure that bicycle use remains consistent with the protection of the park area's natural, scenic and aesthetic values, safety considerations and management objectives, and will not disturb wildlife or park resources. No additional NEPA compliance would be necessary beyond the TMP/EIS ROD, and the written determination will be added into the park's administrative file for the trail project. The Superintendent will provide public notice when trail(s) are authorized for bicycle use through one or more of the procedures under 36 CFR 1.7.

The final rule also authorizes the Superintendent to establish conditions, impose closures, or restrictions for bicycle use on authorized trails, after taking into consideration public health and safety, resource protection, and other management activities and objectives, provided public notice is given under 36 CFR 1.7.

Compliance With Other Laws, Executive Orders, and Department Policy

Regulatory Planning and Review (Executive Orders 12866 and 13563)

Executive Order 12866 provides that the Office of Information and Regulatory Affairs in the Office of Management and Budget will review all significant rules. The Office of Information and Regulatory Affairs has determined that this rule is not significant.

Executive Order 13563 reaffirms the principles of E.O. 12866 while calling for improvements in the nation's regulatory system to promote predictability, to reduce uncertainty, and to use the best, most innovative, and least burdensome tools for achieving regulatory ends. The executive order directs agencies to consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public where these approaches are relevant, feasible, and consistent with regulatory objectives. E.O. 13563 emphasizes further that regulations must be based on the best available science and that the rulemaking process must allow for public participation and an open exchange of ideas. We have developed this rule in a manner consistent with these requirements.

Regulatory Flexibility Act (RFA)

This rule will not have a significant economic effect on a substantial number of small entities under the RFA (5 U.S.C. 601 *et seq.*). This certification is based on information contained in the report titled, ''Cost-Benefit and Regulatory Flexibility Analyses: Proposed Regulations to Designate Bicycle Routes in Cuyahoga Valley National Park'' that is available for review at *http://parkplanning.nps.gov/cuyahogatrailplan.*

Small Business Regulatory Enforcement Fairness Act (SBREFA)

This rule is not a major rule under 5 U.S.C. 804(2), the SBREFA. This rule:

a. Does not have an annual effect on the economy of $100 million or more.

b. Would not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions.

c. Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises.

The current and anticipated users of bicycle routes in CUVA are predominantly individuals engaged in recreational activities. There are no businesses in the surrounding area that would be adversely affected by bicycle use of these trails. Although the park does not have any bicycle rental concessioners, there is a bicycle rental facility adjacent to the park that provides bike rentals that are used within CUVA.

Unfunded Mandates Reform Act (UMRA)

This rule does not impose an unfunded mandate on State, local, or tribal governments or the private sector of more than $100 million per year. The rule does not have a significant or unique effect on State, local or tribal governments or the private sector. A statement containing the information required by the UMRA (2 U.S.C. 1531 *et seq.*) is not required.

Takings (Executive Order 12630)

This rule does not affect a taking of private property or otherwise have taking implications under Executive Order 12630. A taking implications assessment is not required because this rule will not deny any private property owner of beneficial uses of their land, nor will it significantly reduce their land's value.

Federalism (Executive Order 13132)

Under the criteria in section 1 of Executive Order 13132, this rule does not have sufficient federalism implications to warrant the preparation of a Federalism summary impact statement. A Federalism summary impact statement is not required.

Civil Justice Reform (Executive Order 12988)

This rule complies with the requirements of Executive Order 12988. Specifically this rule:

(a) meets the criteria of section 3(a) requiring that all regulations be reviewed to eliminate errors and ambiguity and be written to minimize litigation; and

(b) meets the criteria of section 3(b)(2) requiring that all regulations be written in clear language and contain clear legal standards.

Consultation With Indian tribes (Executive Order 13175 and Department Policy)

The Department of the Interior strives to strengthen its government-to-government relationship with Indian Tribes through a commitment to consultation with Indian Tribes and recognition of their right to self-governance and tribal sovereignty. We have evaluated this rule under the Department's consultation policy and under the criteria in Executive Order 13175 and have determined that it has no substantial direct effects on federally recognized Indian tribes and that consultation under the Department's tribal consultation policy is not required. Affiliated Native American tribes were contacted by letters sent in June, 2012 and May, 2013 to solicit any interests or concerns with the proposed action. No responses were received by the Park.

Paperwork Reduction Act (PRA)

This rule does not contain information collection requirements, and a submission to the Office of Management and Budget under the PRA is not required.

National Environmental Policy Act (NEPA)

We have prepared an environmental impact statement and have determined that this rule will not have a significant effect on the quality of the human environment under the NEPA of 1969. The TMP/EIS for the Park and ROD that included an evaluation of bicycling within the proposed areas may be viewed online at *http://parkplanning.nps.gov/cuyahogatrailplan.*

Effects on the Energy Supply (Executive Order 13211)

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

Drafting Information

The primary authors of this regulation are Lynn Garrity, and Kim Norley, Cuyahoga Valley National Park, and C. Rose Wilkinson and A.J. North, NPS Regulations Program, Washington, DC.

List of Subjects in 36 CFR Part 7

National Parks, Reporting and recordkeeping requirements.

In consideration of the foregoing, the NPS amends 36 CFR part 7 as set forth below:

PART 7—SPECIAL REGULATIONS, AREAS OF THE NATIONAL PARK SYSTEM

■ 1. The authority for Part 7 continues to read as follows:

Authority: 54 U.S.C. 100101, 100751, 320102; Sec. 7.96 also issued under D.C. Code 10–137 and D.C. Code 50–2201.07.

■ 2. Amend § 7.17 by revising the section heading and adding paragraph (b) to read as follows:

§ 7.17 Cuyahoga Valley National Park.

* * * * *

(b) *Bicycles.* (1) The Superintendent may authorize bicycle use on all or portions of each of the following trails:

(i) East Rim (approximately 10 miles);

(ii) Old Carriage Connector Trail (approximately 0.35 miles); and

(iii) Highland Connector Trail (approximately 1.0 mile).

(2) After trail construction is complete:

(i) To authorize bicycle use, the Superintendent must make a written determination that:

(A) The trail is open for public use; and

(B) Bicycle use is consistent with the protection of the park area's natural, scenic and aesthetic values, safety considerations, and management objectives, and will not disturb wildlife or park resources.

(ii) The Superintendent will provide public notice of all such actions through one or more of the methods listed in § 1.7 of this chapter.

(3) The Superintendent may open or close authorized trails, or portions thereof, or impose conditions or restrictions for bicycle use after taking into consideration public health and safety, natural and cultural resource protection, and other management activities and objectives.

(i) The Superintendent will provide public notice of all such actions through one or more of the methods listed in § 1.7 of this chapter.

(ii) Violating a closure, condition, or restriction is prohibited.

Dated: July 31, 2015.

Michael Bean,

Principal Deputy Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 2015–21198 Filed 8–26–15; 8:45 am]

BILLING CODE 4310–EJ–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R07–OAR–2015–0269; FRL–9933–04–Region 7]

Partial Approval and Disapproval of Air Quality Implementation Plans; Nebraska; Revision to the State Implementation Plan (SIP) Infrastructure Requirements for the 1997 and 2006 Fine Particulate Matter National Ambient Air Quality Standards and the Revocation of the PM_{10} Annual Standard and Adoption of the 24hr $PM_{2.5}$ Standard

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking final action to partially approve and disapprove elements of a State Implementation Plan (SIP) submission from the State of Nebraska addressing the applicable requirements of Clean Air Act (CAA) section 110 for the 1997 and 2006 National Ambient Air Quality Standards (NAAQS) for fine particulate matter ($PM_{2.5}$), which requires that each state adopt and submit a SIP to support implementation, maintenance, and enforcement of each new or revised NAAQS promulgated by EPA. These SIPs are commonly referred to as ''infrastructure'' SIPs. The infrastructure requirements are designed to ensure that the structural components of each state's air quality management program are adequate to meet the state's responsibilities under the CAA. Additionally, EPA is taking final action approving the revocation of the coarse particulate matter (PM_{10}) annual standard and adoption of the 24hr $PM_{2.5}$ standard.

DATES: This final rule is effective September 28, 2015.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA–R07–OAR–2015–0269. All documents in the electronic docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, *i.e.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically at *http://www.regulations.gov* or at U.S. Environmental Protection Agency, Region 7, 11201 Renner Boulevard, Lenexa, Kansas 66219 from 8:00 a.m. to

4:30 p.m., Monday through Friday, excluding legal holidays. Interested persons wanting to examine these documents should make an appointment with the office at least 24 hours in advance.

FOR FURTHER INFORMATION CONTACT: Mr. Gregory Crable, Air Planning and Development Branch, U.S. Environmental Protection Agency, Region 7, 11201 Renner Boulevard, Lenexa, KS 66219; *telephone number:* (913) 551–7391; *fax number:* (913) 551–7065; *email address: crable.gregory@epa.gov.*

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

I. Background
II. Summary of SIP Revision
III. Final Action
IV. Statutory and Executive Order Review

I. Background

On May 28, 2015, (80 FR 30404), EPA published a notice of proposed rulemaking (NPR) for the State of Nebraska. The NPR proposed partial approval and disapproval of Nebraska's submission that provides the basic elements specified in section 110(a)(2) of the CAA, or portions thereof, necessary to implement, maintain, and enforce the 1997 and 2006 $PM_{2.5}$ NAAQS. At the same time, EPA proposed approval of the revocation of the PM_{10} annual standard and adoption of the 24 hr. $PM_{2.5}$ NAAQS standard.

II. Summary of SIP Revision

On April 3, 2008, EPA received a SIP submission from the state of Nebraska that addressed the infrastructure elements specified in section 110(a)(2) for the 1997 $PM_{2.5}$ NAAQS. Then on August 29, 2011, EPA received a second SIP submission addressing the infrastructure elements specified in section 110(a)(2) for the 2006 $PM_{2.5}$ NAAQS. Both submissions addressed the following infrastructure elements of section 110(a)(2): (A), (B), (C), (D), (E), (F), (G), (H), (J), (K), (L), and (M). Specific requirements of section 110(a)(2) of the CAA and the rationale for EPA's proposed action to approve and disapprove the SIP submissions are explained in the NPR and will not be restated here. No public comments were received on the NPR.

Finally, a third submission was received by the EPA on November 14, 2011, as a part of a larger submission dealing with various title 129 revisions, which we will address at a later date. This submission revises Chapter 4, Title 129 of the Nebraska Administrative Code. The change repeals the annual NAAQS for PM_{10} which was revoked by the EPA on October 17, 2006, and adopts the new 24-hour $PM_{2.5}$ NAAQS which was issued by EPA, at the same time (71 FR 61144).

III. Final Action

EPA is approving Nebraska's April 3, 2008, and August 29, 2011, submissions for the 1997 and 2006 $PM_{2.5}$ NAAQS respectively. Specifically, EPA approves the following infrastructure elements: 110(a)(2)(A), (B), (C), (D)(i)(II) (prong 3), (D)(ii) (E), (F), (G), (H), (J), (K), (L), and (M) of the CAA, or portions thereof, necessary to implement, maintain, and enforce the 1997 and 2006 $PM_{2.5}$ NAAQS, as a revision to the Nebraska SIP. At the same time, EPA is disapproving 110(a)(2)(D)(i)(II) (prong 4) as it relates to the protection of visibility. As discussed in each applicable section of the NPR, EPA is not acting on section 110(a)(2)(D)(i)(I) (prongs 1 and 2), and section 110(a)(2)(I)—Nonattainment Area Plan or Plan Revisions Under part D. And finally, EPA is approving the November 14, 2011 SIP submittal repealing the annual NAAQS for PM_{10} and adopting the new 24hr $PM_{2.5}$ NAAQS.

IV. Statutory and Executive Order Review

In this rule, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is finalizing the incorporation by reference of the Nebraska regulations for Ambient Air Quality Standards and the EPA approved Nebraska nonregulatory provisions described in the amendments to 40 CFR part 52 set forth below. 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).

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 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 (Public Law 104–4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

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

The Congressional Review Act, 5 U.S.C. 801 *et seq.,* as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in

the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by October 26, 2015. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2)).

List of Subjects in 40 CFR Part 52

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

Dated: August 17, 2015.

Mark Hague,

Acting Regional Administrator, Region 7.

For the reasons stated in the preamble, EPA amends 40 CFR part 52 as set forth below:

■ 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 CC—Nebraska

■ 2. Amend § 52.1420 by:

■ a. Under paragraph (c) in the table entitled ''EPA-Approved Nebraska Regulations'', revising the entry for ''129–4''; and

■ b. Under paragraph (e), in the table entitled ''EPA-Approved Nebraska Nonregulatory Provisions'', adding an entry for (30) in numerical order.

The revisions and additions read as follows:

§ 52.1420 Identification of plan.

* * * * *

(c) * * *

EPA-APPROVED NEBRASKA REGULATIONS

Nebraska citation	Title	State effective date	EPA approval date	Explanation
STATE OF NEBRASKA				
Department of Environmental Quality				
Title 129—Nebraska Air Quality Regulations				
*	*	*	*	*
129–4	Ambient Air Quality Standards.	8/18/08	*8/27/2015 and insert **Federal Register** page number where the document begins.*	This revision to Chapter 4 repeals the annual National Ambient Air Quality Standard (NAAQS) for PM_{10} and adopts the Federal 24-hour NAAQS for $PM_{2.5}$. The standard was reduced from 65 to 35 micrograms per cubic meter by EPA on December 18, 2006.
*	*	*	*	*

* * * * *

(e) * * *

EPA-APPROVED NEBRASKA NONREGULATORY PROVISIONS

Name of nonregulatory SIP provision	Applicable geographic area or nonattainment area	State submittal date	EPA approval date	Explanation
*	*	*	*	*
(30) Section 110(a)(2) Infrastructure Requirements for the 1997 and 2006 $PM_{2.5}$ NAAQS.	Statewide	4/3/08 8/29/11	8/27/2015 and [*Insert **Federal Register** citation*].	This action addresses the following CAA elements 110(a)(2)(A), (B), (C), (D)(i)(II), (D)(ii), (E), (F), (G), (H), (J), (K), (L), and (M).

[FR Doc. 2015–21018 Filed 8–26–15; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R07–OAR–2015–0512; FRL–9932–81–Region 7]

Approval and Promulgation of Implementation Plans; State of Kansas; Infrastructure SIP Requirements for the 2008 Ozone National Ambient Air Quality Standard

AGENCY: Environmental Protection Agency.

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking direct final action to approve an element of a State Implementation Plan (SIP) submission from the State of Kansas addressing the applicable requirements of Clean Air Act (CAA) section 110 for the 2008 National Ambient Air Quality Standards (NAAQS) for Ozone (O_3), which requires that each state adopt and submit a SIP to support implementation, maintenance, and enforcement of each new or revised NAAQS promulgated by EPA. These SIPs are commonly referred to as ''infrastructure'' SIPs. The infrastructure requirements are designed to ensure that the structural components of each state's air quality management program are adequate to meet the state's responsibilities under the CAA.

DATES: This direct final rule will be effective October 26, 2015, without further notice, unless EPA receives adverse comment by September 28, 2015. If EPA receives adverse comment, we will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R07–OAR–2015–0512, by one of the following methods:

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

Instructions: Direct your comments to Docket ID No. EPA–R07–OAR–2015–0512. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit through *www.regulations.gov* or email information that you consider to be CBI or otherwise protected. The *www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *www.regulations.gov,* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, *i.e.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at the Environmental Protection Agency, Air Planning and Development Branch, 11201 Renner Boulevard, Lenexa, Kansas 66219. The Regional Office's official hours of business are Monday through Friday, 8:00 a.m. to 4:30 p.m., excluding legal holidays. The interested persons wanting to examine these documents should make an appointment with the office at least 24 hours in advance.

FOR FURTHER INFORMATION CONTACT: Lachala Kemp, Environmental Protection Agency, Air Planning and Development Branch, 11201 Renner Boulevard, Lenexa, Kansas 66219 at (913) 551–7214 or by email at *kemp.lachala@epa.gov.*

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

I. Background
II. Summary of SIP Revision
III. Final Action
IV. Statutory and Executive Order Review

I. Background

On July 16, 2014, (79 FR 41486), EPA published a notice of proposed rulemaking (NPR) for the State of Kansas. The NPR proposed approval of Kansas' submission that provides the basic elements specified in section 110(a)(2) of the CAA, or portions thereof, necessary to implement, maintain, and enforce the 2008 O_3 NAAQS. EPA subsequently published the final rulemaking on October 21, 2014, (79 FR 62861). EPA did not act on the visibility protection portion of section 110(a)(2)(J) of the CAA at that time.

II. Summary of SIP Revision

On March 19, 2013, and May 9, 2013, EPA received SIP submissions from the state of Kansas that address the infrastructure elements specified in section 110(a)(2) of the CAA for the 2008 O_3 NAAQS. The submissions addressed the following infrastructure elements of section 110(a)(2): (A), (B), (C), (D), (E), (F), (G), (H), (J), (K), (L), and (M). Specific requirements of section 110(a)(2) of the CAA and the rationale for EPA's proposed action to approve the SIP submission are explained in the NPR and will not be restated here.

Under section 110(a)(2)(J) of the CAA, states are required to submit SIPs that meet, among other provisions, part C of the CAA, relating to prevention of significant deterioration of air quality and visibility protection. With respect to the visibility component of section 110(a)(2)(J) of the CAA, Kansas stated in its 2008 O_3 NAAQS infrastructure SIP submissions that EPA had finalized approval of the Kansas Regional Haze SIP on December 27, 2011 (76 FR 80754). In that rulemaking, EPA determined that Kansas' Regional Haze Plan met the CAA requirements for preventing future and remedying existing impairment of visibility caused by air pollutants. However, EPA did not act on the visibility protection portion of section 110(a)(2)(J) of the CAA in its final rule that approved portions of Kansas' 2008 O_3 NAAQS infrastructure SIP submissions.

EPA recognizes that states are subject to visibility and regional haze program requirements under part C of the CAA. However, when EPA establishes or revises a NAAQS, these visibility and regional haze requirements under part C

do not change. EPA believes that there are no new visibility protection requirements under part C as a result of a revised NAAQS. Therefore, there are no newly applicable visibility protection obligations pursuant to element J after the promulgation of a new or revised NAAQS. EPA is therefore approving Kansas' SIP as it satisfies the applicable visibility requirements of Element J with respect to the 2008 O_3 NAAQS as there are no new applicable visibility requirements triggered by the 2008 O_3 NAAQS.

III. Final Action

EPA is taking direct final action to approve the visibility protection portion of section 110(a)(2)(J) of the CAA with regard to the March 19, 2013, and May 9, 2013, infrastructure SIP submissions from the state of Kansas.

Based upon review of the state's infrastructure SIP submissions and relevant statutory and regulatory authorities and provisions referenced in the submission or referenced in Kansas' SIP, EPA is approving Kansas' SIP submittals as they satisfy the applicable visibility requirements of section 110(a)(2)(J) of the CAA with respect to the 2008 O_3 NAAQS as there are no new applicable visibility requirements triggered by the 2008 O_3 NAAQS.

We are publishing this direct final rule without a prior proposed rule because we view this as a noncontroversial action and anticipate no adverse comment. However, in the ''Proposed Rules'' section of this **Federal Register**, we are publishing a separate document that will serve as the proposed rule to approve the SIP revision if adverse comments are received on this direct final rule. We will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. For further information about commenting on this rule, see the **ADDRESSES** section of this document. If EPA receives adverse comment, we will publish a timely withdrawal in the **Federal Register** informing the public that this direct final rule will not take effect. We will address all public comments in any subsequent final rule based on the proposed rule.

IV. Statutory and Executive Order 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 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).

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 CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by October 26, 2015. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2)).

List of Subjects in 40 CFR Part 52

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

Dated: August 12, 2015.

Mark Hague,

Acting Regional Administrator, Region 7.

For the reasons stated in the preamble, EPA amends 40 CFR part 52 as set forth below:

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 R—Kansas

■ 2. In § 52.870, the table in paragraph (e) is amended by adding the entry ''(41) Section 110(a)(2) Infrastructure Requirements for the 2008 O_3 NAAQS'' in numerical order at the end of the table to read as follows:

§ 52.870 Identification of plan.

* * * * *

(e) * * *

EPA-APPROVED KANSAS NONREGULATORY PROVISIONS

Name of nonregulatory SIP provision	Applicable geographic area or nonattainment area	State submittal date	EPA approval date	Explanation
*	*	*	*	*
(41) Section 110(a)(2) Infrastructure Requirements for the 2008 O_3 NAAQS.	Statewide	3/19/2013	8/27/2015 [Insert **Federal Register** citation].	This action addresses the visibility protection portion of section 110(a)(2)(J) of the CAA.

[FR Doc. 2015–20892 Filed 8–26–15; 8:45 am]

BILLING CODE 6560–50–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 1845 and 1852

RIN 2700–AE23

NASA Federal Acquisition Regulation Supplement: NASA Capitalization Threshold (NFS Case 2015–N004)

AGENCY: National Aeronautics and Space Administration.

ACTION: Interim rule.

SUMMARY: The National Aeronautics and Space Administration (NASA) is issuing an interim rule amending the NASA FAR Supplement to increase the NASA capitalization threshold from $100,000 to $500,000.

DATES: *Effective* August 27, 2015.

Comment Date: Comments on this interim rule should be submitted in writing to the address shown below on or before October 26, 2015 to be considered in the formation of the final rule.

ADDRESSES: Interested parties may submit comments identified by NFS Case 2015–N004, using any of the following methods:

○ *Regulations.gov: http://www.regulations.gov.* Submit comments via the Federal eRulemaking portal by entering ''NFS Case 2015–N004'' under the heading ''Enter keyword or ID'' and selecting ''Search.'' Select the link ''Submit a Comment'' that corresponds with ''NFS Case 2015–N004.'' Follow the instructions provided at the ''Submit a Comment'' screen. Please include your name, company name (if any), and ''NFS Case 2015–N004'' on your attached document.

○ *Email: Andrew.ORourke@NASA.gov.* Include NFS Case 2015–N004 in the subject line of the message.

○ *Fax:* (202) 358–3082.

○ *Mail:* National Aeronautics and Space Administration, Headquarters, Office of Procurement, Contract and Grant Policy Division, Attn: Andrew O'Rourke, Room 5L32, 300 E. Street SW., Washington, DC 20546–0001.

FOR FURTHER INFORMATION CONTACT: Andrew O'Rourke, NASA Office of Procurement, Contract and Grant Policy Division, 202–358–4560, email: *andrew.orourke@nasa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

In accordance with the Statement of Federal Financial Accounting Standard (SFFAS) No. 6, Accounting for Property, Plant, and Equipment, federal agencies are to record as property and equipment all items that meet certain characteristics, such as a useful life of 2 years or more, and are permitted to establish individual capitalization thresholds and useful life policies due to their diverse size and uses of property, plant & equipment. SFFAS No. 6 was issued in November 1995 and was effective for fiscal years beginning after September 30, 1997. The current NASA capitalization threshold of $100,000, was established when SFFAS 6 was initially implemented and is in the NFS.

The Government Accountability Office (GAO) recommends that capitalization thresholds should be periodically reevaluated to help ensure their continuing relevance and are tied to materiality as well, in that they generally are established at a level that would not omit a significant amount of assets from the balance sheet, which could materially misstate the financial statements of an entity or its components.

Recently, the NASA Office of the Chief Financial Officer conducted a review of the current NASA capitalization threshold of $100,000 and based on this review it was determined to increase the capitalization threshold from $100,000 to $500,000.

II. Discussion

This interim rule revises NFS parts 1845 and 1852 by increasing an already established NASA capitalization threshold from $100,000 to $500,000. Specifically, the proposed changes are as follows:

- Added a new paragraph (b) to section 1845.301–71.
- Changed capitalization threshold amount from $100,000 to $500,000 in sections 1845.7101–1, 1845.7101–2, 1845.7101–3, 1852.245–70, and 1852.245–78.

III. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 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). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule is not a significant regulatory action under section 3(f) of Executive Order 12866. This rule is not a major rule under 5 U.S.C. 804.

IV. Regulatory Flexibility Act

NASA does not expect this interim rule to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.,* because the objective of this interim rule is to increase the already established NASA capitalization threshold from $100,000 to $500,000. However, an initial regulatory flexibility analysis has been performed and is summarized as follows:

The increase in the NASA capitalization threshold is expected to benefit NASA contractors by reducing the administrative burden associated with financial reporting of NASA property in the custody of contractors. The legal basis for this rule is 51 U.S.C. 20113(a).

The requirements under this rule will apply to any contract award (including contracts for supplies, services, construction, and major systems) that

requires the use of Government property by contractors. According to NASA Property Records in FY 2014 there were 568 contracts that required reporting of Government property by NASA contractors. Of the 568 contracts, it is estimated that approximately 20% or 114 contracts were small businesses.

The rule does not duplicate, overlap, or conflict with any other Federal rules. No alternatives were identified that would meet the objectives of the rule.

NASA invites comments from small business concerns and other interested parties on the expected impact of this rule on small entities. NASA will also consider comments from small entities concerning the existing regulations in subparts affected by this rule in accordance with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C. 610 (NASA Case 2015–N004), in correspondence.

V. Paperwork Reduction Act

The Paperwork Reduction Act (Pub. L. 104–13) is applicable. However, the NFS changes do not impose information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.* beyond those identified and approved as part of the FAR part 45 (Ref OMB Control No. 9000–0075) and under NASA OMB Control No. 2700–0017.

VI. Determination To Issue an Interim Rule

A determination has been made by the Assistant Administrator for Procurement, pursuant to 41 U.S.C. 1707(d) that urgent and compelling reasons exist to justify promulgating this rule on an interim basis without prior opportunity for public comment. This interim rule is needed to prevent the continuation of the mandate of contractors having to submit reports at the current threshold specified in the NASA FAR Supplement while the NASA Financial Regulation requires reporting at a higher dollar threshold. This inconsistency of reporting threshold results in contractors incurring costs of reporting unnecessary information at taxpayer expense. Immediate implementation of this rule will reduce superfluous reporting burdens to contractors resulting in savings to both contractor and the Government. By increasing the NASA capitalization threshold, we estimate a reduction in reporting of 320 assets resulting in an annual decrease in burden of 1,920 hours and approximately $148,000 in cost avoidance.

The current NASA capital asset threshold of $100,000 was established when Statement of Federal Financial Accounting Standard (SFFAS) No. 6, Accounting for Property, Plant, and Equipment was initially implemented in 1997 and has not been adjusted in the NFS since that time. The Government Accountability Office (GAO) recommends that capital asset thresholds should be periodically reevaluated to ensure their continuing relevance and that they are established at a level that would not omit a significant amount of assets from the balance sheet. As such the NASA Office of the Chief Financial Officer conducted a review of the current NASA capital asset threshold of $100,000 and based on this review determined an increase in the capital asset threshold to $500,000 was warranted per NASA Interim Directive (NID) for NPR 9250.1, Property, Plant, and Equipment and Operating Materials and Supplies.

The most effective and efficient way to ensure awareness of and compliance by contractors with this increase to the capital asset threshold reporting requirement is through an immediate regulatory change. Delaying promulgation of this increase to the capital asset threshold would cause contractors to continue reporting such assets at the lower threshold effectively maintaining this unnecessary administrative burden on the contractor and delaying contractor savings that would come from this reduced reporting requirement. Moreover, contractors would be providing information on capital assets that would not be used by NASA since the NID implementing this capital asset threshold increase within the NASA financial community is already in effect. Pursuant to 41 U.S.C. 1707 and FAR 1.501–3(b), NASA will consider public comments received in response to this interim rule in the formation of the Agency's final rule.

List of Subjects in 48 CFR Parts 1845 and 1852

Government procurement.

Manuel Quinones,

Federal Register Liaison.

Accordingly, 48 CFR parts 1845 and 1852 are amended as follows:

PART 1845—GOVERNMENT PROPERTY

■ 1. The authority citation for 48 CFR part 1845 is revised to read as follows:

Authority: 51 U.S.C. 20113(a) and 41 U.S.C. chapter 1.

■ 2. Amend section 1845.301–71 by adding paragraph (b) to read as follows:

1845.301–71 Use of Government property for commercial work.

* * * * *

(b)(1) The Center Procurement Officer is the approval authority for non-Government use of equipment exceeding 25 percent.

(2) The percentage of Government and non-Government use shall be computed on the basis of time available for use. For this purpose, the contractor's normal work schedule, as represented by scheduled production shift hours, shall be used. All equipment having a unit acquisition cost of less than $500,000 at any single location may be averaged over a quarterly period. Equipment having a unit acquisition cost of $500,000 or more shall be considered on an item-by-item basis.

(3) Approvals for non-Government use, less than 25 percent, may not exceed 1 year. Approval for non-Government use in excess of 25 percent shall not exceed 3 months.

(4) Requests for the approval shall be submitted to the Center Procurement Officer at least 6 weeks in advance of the projected use and shall include—

(i) The number of equipment items involved and their total acquisition cost; and

(ii) An itemized listing of equipment having an acquisition cost of $500,000 or more, showing for each item the nomenclature, year of manufacture, and acquisition cost.

1845.7101–1 [Amended]

■ 3. Amend section 1845.7101–1 by removing ''100,000'' everywhere it appears and adding ''500,000'' in its place.

1845.7101–2 [Amended]

■ 4. Amend section 1845.7101–2, in paragraph (a), by removing ''100,000'' and adding ''500,000'' in its place.

■ 5. Amend section 1845.7101–3 by revising paragraph (f) to read as follows:

1845.7101–3 Unit acquisition cost.

* * * * *

(f) Only modifications that improve an item's capacity or extend its useful life two years or more and that cost $500,000 or more shall be reported on the NF 1018 on the $500,000 & Over line. The costs of any other modifications, excluding routine maintenance, will be reported on the Under $500,000 line. If an item's original unit acquisition cost is less than $500,000, but a single subsequent modification costs $500,000 or more, that modification only will be reported as an item $500,000 or more on subsequent NF 1018s. The original acquisition cost of the item will

continue to be included in the under $500,000 total. The quantity for the modified item will remain ''1'' and be reported with the original acquisition cost of the item. If an item's acquisition cost is reduced by removal of components so that its remaining acquisition cost is under $500,000, it shall be reported as under $500,000.

* * * * *

PART 1852—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 6. The authority citation for 48 CFR part 1852 is revised to read as follows:

Authority: 51 U.S.C. 20113(a) and 41 U.S.C. chapter 1.

■ 7. Amend section 1852.245–70 by revising the date of the clause, paragraphs (b)(1)(iv) and (v), and the date of the clause and introductory text for Alternate I to read as follows:

1852.245–70 Contractor requests for Government-provided equipment.

* * * * *

CONTRACTOR REQUESTS FOR GOVERNMENT–PROVIDED EQUIPMENT

AUG 2015

* * * * *

(b) * * *

(1) * * *

(iv) Combine requests for quantities of items with identical descriptions and estimated values when the estimated values do not exceed $500,000 per unit; and

(v) Include only a single unit when the acquisition or construction value equals or exceeds $500,000.

* * * * *

ALTERNATE I

AUG 2015

As prescribed in 1845.107–70(a)(2), add the following paragraph (e).

* * * * *

1852.245–78 [Amended]

■ 8. Amend section 1852.245–78 by removing ''JAN 2011'' and adding ''AUG 2015'' in its place and in paragraph (a) removing ''100,000'' and adding ''500,000'' in its place.

[FR Doc. 2015–21101 Filed 8–26–15; 8:45 am]

BILLING CODE 7510–13–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 635

[Docket No. 120328229–4949–02]

RIN 0648–XE095

Atlantic Highly Migratory Species; Atlantic Bluefin Tuna Fisheries

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

ACTION: Temporary rule; inseason General category retention limit adjustment.

SUMMARY: NMFS is adjusting the Atlantic bluefin tuna (BFT) General category daily retention limit from the default limit of one large medium or giant BFT to four large medium or giant BFT for the September, October through November, and December subquota time periods of the 2015 fishing year. This action is based on consideration of the regulatory determination criteria regarding inseason adjustments, and applies to Atlantic tunas General category (commercial) permitted vessels and Highly Migratory Species (HMS) Charter/Headboat category permitted vessels when fishing commercially for BFT.

DATES: Effective September 1, 2015, through December 31, 2015.

FOR FURTHER INFORMATION CONTACT: Sarah McLaughlin or Brad McHale, 978–281–9260.

SUPPLEMENTARY INFORMATION: Regulations implemented under the authority of the Atlantic Tunas Convention Act (ATCA; 16 U.S.C. 971 *et seq.*) and the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act; 16 U.S.C. 1801 *et seq.*) governing the harvest of BFT by persons and vessels subject to U.S. jurisdiction are found at 50 CFR part 635. Section 635.27 subdivides the U.S. BFT quota recommended by the International Commission for the Conservation of Atlantic Tunas (ICCAT) among the various domestic fishing categories, per the allocations established in the 2006 Atlantic Consolidated Highly Migratory Species Fishery Management Plan (2006 Consolidated HMS FMP) (71 FR 58058, October 2, 2006), as amended by Amendment 7 to the 2006 Consolidated HMS FMP (Amendment 7) (79 FR 71510, December 2, 2014), and in accordance with implementing regulations. NMFS is required under ATCA and the Magnuson-Stevens Act to provide U.S. fishing vessels with a reasonable opportunity to harvest the ICCAT-recommended quota.

The currently codified baseline U.S. quota is 923.7 mt (not including the 25 mt ICCAT allocated to the United States to account for bycatch of BFT in pelagic longline fisheries in the Northeast Distant Gear Restricted Area). Among other things, Amendment 7 revised the allocations to all quota categories, effective January 1, 2015. See § 635.27(a). The currently codified General category quota is 403 mt. Each of the General category time periods (''January,'' June through August, September, October through November, and December) is allocated a portion of the annual General category quota. The codified baseline General category subquotas include 106.8 mt for September, 52.4 mt for October through November, and 21 mt for December. NMFS transferred 21 mt of BFT quota from the December 2015 subquota to the January 2015 subquota period (79 FR 77943, December 29, 2014).

Unless changed, the General category daily retention limit starting on September 1 would be the default retention limit of one large medium or giant BFT (measuring 73 inches (185 cm) curved fork length (CFL) or greater) per vessel per day/trip (§ 635.23(a)(2)). This default retention limit would apply to General category permitted vessels and to HMS Charter/Headboat category permitted vessels when fishing commercially for BFT.

For the 2014 fishing year, NMFS adjusted the General category limit from the default level of one large medium or giant BFT as follows: Two large medium or giant BFT for January (78 FR 77362, December 23, 2013), four large medium or giant BFT for June through August (79 FR 30745, May 29, 2014), and four large medium or giant BFT for September through December (79 FR 50854, August 26, 2014). NMFS adjusted the daily retention limit for the 2015 January subquota period from the default level of one large medium or giant BFT to three large medium or giant BFT in the same action as the 21-mt transfer from the December 2015 subquota period to the January 2015 subquota period described above (79 FR 77943, December 29, 2014). For the June through August 2015 subquota period, NMFS adjusted the daily retention limit to four large medium or giant BFT (80 FR 27863, May 15, 2015).

Adjustment of General Category Daily Retention Limit

Under § 635.23(a)(4), NMFS may increase or decrease the daily retention limit of large medium and giant BFT over a range of zero to a maximum of five per vessel based on consideration of the relevant criteria provided under § 635.27(a)(8), which are: The usefulness of information obtained from catches in the particular category for biological sampling and monitoring of the status of the stock; the catches of the particular category quota to date and the likelihood of closure of that segment of the fishery if no adjustment is made; the projected ability of the vessels fishing under the particular category quota to harvest the additional amount of BFT before the end of the fishing year; the estimated amounts by which quotas for other gear categories of the fishery might be exceeded; effects of the adjustment on BFT rebuilding and overfishing; effects of the adjustment on accomplishing the objectives of the fishery management plan; variations in seasonal distribution, abundance, or migration patterns of BFT; effects of catch rates in one area precluding vessels in another area from having a reasonable opportunity to harvest a portion of the category's quota; review of dealer reports, daily landing trends, and the availability of the BFT on the fishing grounds; optimizing fishing opportunity; accounting for dead discards, facilitating quota monitoring, supporting other fishing monitoring programs through quota allocations and/or generation of revenue; and support of research through quota allocations and/or generation of revenue.

NMFS has considered these criteria and their applicability to the General category BFT retention limit for September through December 2015. These include, but are not limited to, the following considerations: Biological samples collected from BFT landed by General category fishermen and provided by BFT dealers continue to provide NMFS with valuable data for ongoing scientific studies of BFT age and growth, migration, and reproductive status. Continued BFT landings would support the collection of a broad range of data for these studies and for stock monitoring purposes.

As this action would be taken consistent with the quotas previously established and analyzed in Amendment 7 (79 FR 71510, December 2, 2014), and consistent with objectives of the 2006 Consolidated HMS FMP, it is not expected to negatively impact stock health. A principal consideration is the objective of providing opportunities to harvest the full 2015 General category quota without exceeding it based upon the 2006 Consolidated HMS FMP goal: ''Consistent with other objectives of this FMP, to manage Atlantic HMS fisheries for continuing optimum yield so as to provide the greatest overall benefit to the Nation, particularly with respect to food production, providing recreational opportunities, preserving traditional fisheries, and taking into account the protection of marine ecosystems.'' It is also important that NMFS constrain landings to BFT subquotas both to adhere to the FMP quota allocations and to ensure that landings are as consistent as possible with the pattern of fishing mortality (*e.g.,* fish caught at each age) that was assumed in the projections of stock rebuilding.

NMFS also considered the fact that it has prepared a final quota rule that would implement and give domestic effect to the 2014 ICCAT recommendation on western Atlantic BFT management, which increased the U.S. BFT quota for 2015 and 2016 by 14 percent from the 2014 level (proposed rule: 80 FR 33467, June 12, 2015; final rule expected to file with the Office of the Federal Register in late August and be effective in late September 2015). The domestic subquotas in that action would result from application of the allocation process established in Amendment 7 to the increased U.S. quota, and would include an increase in the General category quota from the currently codified 403 mt to 466.7 mt. As explained below, however, the retention limits being set in this action are not dependent on those quota increases.

Commercial-sized BFT migrated to the fishing grounds off New England by early June and are actively being landed. As of August 14, 2015, 141.5 mt of the 2015 General category quota of 403 mt have been landed, and landings rates remain at approximately 1 mt per day. Given the rollover of unused quota from one time period to the next, current catch rates, and the fact that the daily retention limit will automatically revert to one large medium or giant BFT per vessel per day on September 1, 2015, absent agency action, NMFS anticipates the full 2015 General category quota may not be harvested. In September through December 2014, under a four-fish limit, BFT landings were approximately 268.4 mt. For the entire 2014 fishing year, 94.6 percent of the available General category quota was filled.

A limit lower than four fish could result in unused quota being added to the later portion of the General category season (*i.e.,* rolling forward to the subsequent subquota time period). Increasing the daily retention limit from the default may mitigate rolling an excessive amount of unused quota from one subquota time period to the next. However, increasing the daily limit to five fish may risk exceeding the available General category quota. Increasing the daily retention limit to four fish will increase the likelihood that the General category BFT landings will approach, but not exceed, the annual quota, as well as increase the opportunity for catching BFT harvest during September through December. Increasing (and sometimes maximizing) opportunity within each subquota period is also important because of the migratory nature and seasonal distribution of BFT. In a particular geographic region, or waters accessible from a particular port, the amount of fishing opportunity for BFT may be constrained by the short amount of time the BFT are present.

Based on these considerations, NMFS has determined that a four-fish General category retention limit is warranted. It would provide a reasonable opportunity to harvest the U.S. BFT quota, without exceeding it, while maintaining an equitable distribution of fishing opportunities; help achieve optimum yield in the BFT fishery; allow the collection of a broad range of data for stock monitoring purposes; and be consistent with the objectives of the 2006 Consolidated HMS FMP, as amended. Therefore, NMFS increases the General category retention limit from the default limit (one) to four large medium or giant BFT per vessel per day/trip, effective September 1, 2015, through December 31, 2015.

Regardless of the duration of a fishing trip, the daily retention limit applies upon landing. For example (and specific to the September through December 2015 limit), whether a vessel fishing under the General category limit takes a two-day trip or makes two trips in one day, the daily limit of four fish may not be exceeded upon landing. This General category retention limit is effective in all areas, except for the Gulf of Mexico, where NMFS prohibits targeting fishing for BFT, and applies to those vessels permitted in the General category, as well as to those HMS Charter/Headboat permitted vessels fishing commercially for BFT.

Monitoring and Reporting

NMFS will continue to monitor the BFT fishery closely through the landings and catch reports. Dealers are required to submit landing reports within 24 hours of a dealer receiving

BFT. General, HMS Charter/Headboat, Harpoon, and Angling category vessel owners are required to report the catch of all BFT retained or discarded dead, within 24 hours of the landing(s) or end of each trip, by accessing *hmspermits.noaa.gov.* Depending on the level of fishing effort and catch rates of BFT, NMFS may determine that additional retention limit adjustment or closure is necessary to ensure available quota is not exceeded or to enhance scientific data collection from, and fishing opportunities in, all geographic areas.

Closures or subsequent adjustments to the daily retention limits, if any, will be published in the **Federal Register**. In addition, fishermen may call the Atlantic Tunas Information Line at (978) 281–9260, or access *hmspermits.noaa.gov,* for updates on quota monitoring and inseason adjustments.

Classification

The Assistant Administrator for NMFS (AA) finds that it is impracticable and contrary to the public interest to provide prior notice of, and an opportunity for public comment on, this action for the following reasons.

The regulations implementing the 2006 Consolidated HMS FMP, as amended, provide for inseason retention limit adjustments to respond to the unpredictable nature of BFT availability on the fishing grounds, the migratory nature of this species, and the regional variations in the BFT fishery. Based on available BFT quotas, fishery performance in recent years, the availability of BFT on the fishing grounds, among other considerations, adjustment to the General category BFT daily retention limit from the default level is warranted. Analysis of available data shows that adjustment to the BFT daily retention limit from the default level would result in minimal risks of exceeding the ICCAT-allocated quota. NMFS provides notification of retention limit adjustments by publishing the notice in the **Federal Register**, emailing individuals who have subscribed to the Atlantic HMS News electronic newsletter, and updating the information posted on the Atlantic Tunas Information Line and on *hmspermits.noaa.gov.*

Delays in increasing these retention limits would adversely affect those General and Charter/Headboat category vessels that would otherwise have an opportunity to harvest more than the default retention limit of one BFT per day/trip and may exacerbate the problem of low catch rates and quota rollovers. Limited opportunities to harvest the respective quotas may have negative social and economic impacts for U.S. fishermen that depend upon catching the available quota within the time periods designated in the 2006 Consolidated HMS FMP, as amended. Adjustment of the retention limit needs to be effective September 1, 2015, or as soon as possible thereafter, to minimize any unnecessary disruption in fishing patterns, to allow the impacted sectors to benefit from the adjustment, and to not preclude fishing opportunities for fishermen in geographic areas with access to the fishery only during this time period. Therefore, the AA finds good cause under 5 U.S.C. 553(b)(B) to waive prior notice and the opportunity for public comment. For these reasons, there is good cause under 5 U.S.C. 553(d) to waive the 30-day delay in effectiveness.

This action is being taken under § 635.23(a)(4) and is exempt from review under Executive Order 12866.

Authority: 16 U.S.C. 971 *et seq.* and 1801 *et seq.*

Dated: August 24, 2015.

Emily H. Menashes,

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

[FR Doc. 2015–21251 Filed 8–24–15; 4:15 pm]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 141021887–5172–02]

RIN 0648–XE143

Fisheries of the Exclusive Economic Zone Off Alaska; Reallocation of Pollock in the Bering Sea and Aleutian Islands

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

ACTION: Temporary rule.

SUMMARY: NMFS is reallocating the projected unused amounts of the Aleut Corporation's pollock directed fishing allowance from the Aleutian Islands subarea to the Bering Sea subarea directed fisheries. This action is necessary to provide opportunity for harvest of the 2015 total allowable catch of pollock, consistent with the goals and objectives of the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), August 27, 2015, until 2400 hrs, A.l.t., December 31, 2015.

FOR FURTHER INFORMATION CONTACT: Steve Whitney, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the BSAI exclusive economic zone according to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (FMP) prepared by the North Pacific Fishery Management Council (Council) under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

In the Aleutian Islands subarea, the portion of the 2015 pollock total allowable catch (TAC) allocated to the Aleut Corporation's directed fishing allowance (DFA) is 12,146 metric tons (mt) as established by the final 2015 and 2016 harvest specifications for groundfish in the BSAI (80 FR 11919, March 5, 2015), and through reallocation (80 FR 15695, March 25, 2015).

As of August 19, 2015, the Administrator, Alaska Region, NMFS, (Regional Administrator) has determined that 10,000 metric tons (mt) of Aleut Corporation's DFA will not be harvested. Therefore, in accordance with § 679.20(a)(5)(iii)(B)(*4*), NMFS reallocates 10,000 mt of Aleut Corporation's DFA from the Aleutian Islands subarea to the 2015 Bering Sea subarea allocations. The 10,000 mt of pollock is apportioned to the AFA Inshore sector (50 percent), AFA catcher/processor sector (40 percent), and the AFA mothership sector (10 percent). The 2015 Bering Sea pollock incidental catch allowance remains at 47,160 mt. As a result, the harvest specifications for pollock in the Aleutian Islands subarea included in the final 2015 and 2016 harvest specifications for groundfish in the BSAI (80 FR 11919, March 5, 2015), and revised (80 FR 15695, March 25, 2015), are further revised as follows: 2,146 mt to Aleut Corporation's DFA. Furthermore, pursuant to § 679.20(a)(5), Table 4 of the final 2015 and 2016 harvest specifications for groundfish in the BSAI (80 FR 11919, March 5, 2015), and revised (80 FR 15695, March 25, 2015), is further revised as follows to make 2015 pollock allocations consistent with this reallocation. This reallocation results in an adjustment to the 2015 Aleut Corporation allocation established at § 679.20(a)(5).

TABLE 4—FINAL 2015 ALLOCATIONS OF POLLOCK TACS TO THE DIRECTED POLLOCK FISHERIES AND TO THE CDQ DIRECTED FISHING ALLOWANCES (DFA) [1]

[Amounts are in metric tons]

Area and sector	2015 Allocations	2015 A season [1]		2015 B season [1]
		A season DFA	SCA harvest limit [2]	B season DFA
Bering Sea subarea TAC [1]	1,324,454	n/a	n/a	n/a
CDQ DFA	132,900	53,160	37,212	79,740
ICA [1]	47,160	n/a	n/a	n/a
AFA Inshore	572,197	228,879	160,215	343,318
AFA Catcher/Processors [3]	457,758	183,103	128,172	274,655
Catch by C/Ps	418,848	167,539	n/a	251,309
Catch by CVs [3]	38,909	15,564	n/a	23,346
Unlisted C/P Limit [4]	2,289	916	n/a	1,373
AFA Motherships	114,439	45,776	32,043	68,664
Excessive Harvesting Limit [5]	200,269	n/a	n/a	n/a
Excessive Processing Limit [6]	343,318	n/a	n/a	n/a
Total Bering Sea DFA	1,144,394	457,758	320,430	686,636
Aleutian Islands subarea ABC	29,659	n/a	n/a	n/a
Aleutian Islands subarea TAC [1]	4,546	n/a	n/a	n/a
CDQ DFA	0	0	n/a	0
ICA	2,400	1,200	n/a	1,200
Aleut Corporation	2,146	2,146	n/a	0
Area harvest limit				
541	8,898	n/a	n/a	n/a
542	4,449	n/a	n/a	n/a
543	1,483	n/a	n/a	n/a
Bogoslof District ICA [7]	100	n/a	n/a	n/a

[1] Pursuant to § 679.20(a)(5)(i)(A), the BS subarea pollock, after subtracting the CDQ DFA (10 percent) and the ICA (4.0 percent), is allocated as a DFA as follows: Inshore sector—50 percent, catcher/processor sector (C/P)—40 percent, and mothership sector—10 percent. In the BS subarea, 40 percent of the DFA is allocated to the A season (January 20–June 10) and 60 percent of the DFA is allocated to the B season (June 10–November 1). Pursuant to § 679.20(a)(5)(iii)(B)(*2*)*(i)* and *(ii),* the annual AI pollock TAC, after subtracting first for the CDQ directed fishing allowance (10 percent) and second the ICA (2,400 mt), is allocated to the Aleut Corporation for a pollock directed fishery. In the AI subarea, the A season is allocated 40 percent of the ABC and the B season is allocated the remainder of the pollock directed fishery.

[2] In the BS subarea, no more than 28 percent of each sector's annual DFA may be taken from the SCA before April 1.

[3] Pursuant to § 679.20(a)(5)(i)(A)(*4*), not less than 8.5 percent of the DFA allocated to listed catcher/processors shall be available for harvest only by eligible catcher vessels delivering to listed catcher/processors.

[4] Pursuant to § 679.20(a)(5)(i)(A)(*4*)(*iii*), the AFA unlisted catcher/processors are limited to harvesting not more than 0.5 percent of the catcher/processors sector's allocation of pollock.

[5] Pursuant to § 679.20(a)(5)(i)(A)(*6*), NMFS establishes an excessive harvesting share limit equal to 17.5 percent of the sum of the non-CDQ pollock DFAs.

[6] Pursuant to § 679.20(a)(5)(i)(A)(*7*), NMFS establishes an excessive processing share limit equal to 30.0 percent of the sum of the non-CDQ pollock DFAs.

[7] Pursuant to § 679.20(a)(5)(iii)(B)(*6*), NMFS establishes harvest limits for pollock in the A season in Area 541 no more than 30 percent, in Area 542 no more than 15 percent, and in Area 543 no more than 5 percent of the Aleutian Islands pollock ABC.

[8] The Bogoslof District is closed by the final harvest specifications to directed fishing for pollock. The amounts specified are for ICA only and are not apportioned by season or sector.

Note: Seasonal or sector apportionments may not total precisely due to rounding.

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the reallocation of AI pollock. Since the pollock fishery is currently open, it is important to immediately inform the industry as to the final Bering Sea subarea pollock allocations. Immediate notification is necessary to allow for the orderly conduct and efficient operation of this fishery; allow the industry to plan for the fishing season and avoid potential disruption to the fishing fleet as well as processors; and provide opportunity to harvest increased seasonal pollock allocations while value is optimum. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of August 19, 2015.

The AA also finds good cause to waive the 30-day delay in the effective date of this action under 5 U.S.C. 553(d)(3). This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

This action is required by § 679.20 and is exempt from review under Executive Order 12866.

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

Dated: August 21, 2015.

Alan D. Risenhoover,

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

[FR Doc. 2015–21144 Filed 8–26–15; 8:45 am]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 80, No. 166
Thursday, August 27, 2015

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

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 532

RIN 3206–AN20

Prevailing Rate Systems; Definition of Hancock County, Mississippi, to a Nonappropriated Fund Federal Wage System Wage Area

AGENCY: U.S. Office of Personnel Management.

ACTION: Proposed rule with request for comments.

SUMMARY: The U.S. Office of Personnel Management (OPM) is issuing a proposed rule that would define Hancock County, Mississippi, as an area of application county to the Harrison, MS, nonappropriated fund (NAF) Federal Wage System (FWS) wage area. This change is necessary because there are four NAF FWS employees working in Hancock County, and the county is not currently defined to a NAF wage area.

DATES: We must receive comments on or before September 28, 2015.

ADDRESSES: You may submit comments, identified by ''RIN 3206–AN20,'' using any of the following methods:

Federal eRulemaking Portal: http://www.regulations.gov. Follow the instructions for submitting comments.

Mail: Brenda L. Roberts, Deputy Associate Director for Pay and Leave, Employee Services, U.S. Office of Personnel Management, Room 7H31, 1900 E Street NW., Washington, DC 20415–8200.

Email: pay-leave-policy@opm.gov.

FOR FURTHER INFORMATION CONTACT: Madeline Gonzalez, by telephone at (202) 606–2858 or by email at *pay-leave-policy@opm.gov.*

SUPPLEMENTARY INFORMATION: OPM is issuing a proposed rule that would define Hancock County, MS, as an area of application to the Harrison, MS, NAF FWS wage area. The Navy Exchange and Navy Morale, Welfare, and Recreation in Hancock County is now operating NAF activities at the John C. Stennis Space Center, located in southwestern Mississippi, with a combined total of four NAF employees.

Under section 532.219 of title 5, Code of Federal Regulations, each NAF wage area ''shall consist of one or more survey areas, along with nonsurvey areas, if any, having nonappropriated fund employees.'' Hancock County does not meet the regulatory criteria under 5 CFR 532.219 to be established as a separate NAF wage area; however, nonsurvey counties may be combined with a survey area to form a wage area. Section 532.219 lists the regulatory criteria that OPM considers when defining FWS wage area boundaries:

- Proximity of largest facilities activity in each county;
- Transportation facilities and commuting patterns; and
- Similarities of the counties in:
  - Overall population,
  - Private employment in major industry categories, and
  - Kinds and sizes of private industrial establishments.

Based on an analysis of the regulatory criteria for defining NAF wage areas, Hancock County, MS, should be defined as an area of application to Harrison, MS, NAF FWS wage area. The proximity criterion favors the Harrison, MS, wage area more than the Orleans, LA, wage area. The transportation facilities criterion does not favor one wage area more than another. The commuting patterns criterion favors the Harrison wage area. Although the overall population, employment sizes, and kinds and sizes of private industrial establishments criterion does not favor one wage area more than another, the industrial distribution pattern for Hancock County is more similar to the Harrison survey area than to the Orleans survey area. While a standard review of regulatory criteria shows mixed results, the proximity and commuting patterns criteria solidly favor the Harrison wage area. Based on this analysis, we propose that Hancock County be defined to the Harrison NAF wage area.

The proposed expanded Harrison NAF wage area would consist of one survey county (Harrison County, MS) and four area of application counties (Mobile County, AL, and Forrest, Hancock, and Jackson Counties, MS). The Federal Prevailing Rate Advisory Committee, the national labor-management committee responsible for advising OPM on matters concerning the pay of FWS employees, recommended this change by consensus. This change would be effective on the first day of the first applicable pay period beginning on or after 30 days following publication of the final regulations.

Regulatory Flexibility Act

I certify that these regulations would not have a significant economic impact on a substantial number of small entities because they would affect only Federal agencies and employees.

List of Subjects in 5 CFR Part 532

Administrative practice and procedure, Freedom of information, Government employees, Reporting and recordkeeping requirements, Wages.

U.S. Office of Personnel Management.

Beth F. Cobert,

Acting Director.

Accordingly, the U.S. Office of Personnel Management is proposing to amend 5 CFR part 532 as follows:

PART 532—PREVAILING RATE SYSTEMS

■ 1. The authority citation for part 532 continues to read as follows:

Authority: 5 U.S.C. 5343, 5346; § 532.707 also issued under 5 U.S.C. 552.

Appendix D to Subpart B of Part 532—Nonappropriated Fund Wage and Survey Areas

■ 2. Appendix D to subpart B is amended by revising the wage area listing for the Harrison, NAF wage areas to read as follows:

* * * * *

MISSISSIPPI

* * * * *

Harrison

Survey Area

Mississippi:
Harrison

Area of Application. Survey area plus:

Alabama:
Mobile
Mississippi:
Forrest
Hancock
Jackson

* * * * *

[FR Doc. 2015–21193 Filed 8–26–15; 8:45 am]
BILLING CODE 6325–39–P

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 20 and 61

[NRC–2011–0012; NRC–2015–0003]

RIN 3150–AI92

Low-Level Radioactive Waste Disposal

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule and draft NUREG; reopening of comment period.

SUMMARY: On March 26, 2015, the U.S. Nuclear Regulatory Commission (NRC) requested public comment on a proposed rule that would amend its regulations that govern low-level radioactive waste (LLRW) disposal facilities. The proposed rule would require new and revised site-specific technical analyses, permit the development of site-specific criteria for LLRW acceptance based on the results of those analyses, facilitate implementation, and better align the requirements with current health and safety standards. Also on March 26, 2015, the NRC requested comment on draft guidance to address the implementation of the proposed regulations (NUREG–2175, ''Guidance for Conducting Technical Analyses for 10 CFR part 61''). The public comment period for the proposed rule and draft guidance closed on July 24, 2015. The NRC is reopening the public comment periods for the proposed rule and draft guidance to allow more time for members of the public to develop and submit their comments.

DATES: The comment periods for the proposed rule published on March 26, 2015 (80 FR 16081), and the draft guidance published on March 26, 2015 (80 FR 15930), have been reopened. Comments should be filed no later than September 21, 2015.

ADDRESSES: The methods for submitting comments on the proposed rule are different from the methods for submitting comments on the draft guidance.

Proposed Rule: You may submit comments on the proposed rule by any of the following methods:

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2011–0012.
- *Email comments to: Rulemaking.Comments@nrc.gov.* If you do not receive an automatic email reply confirming receipt, then contact us at (301) 415–1677.
- *Fax comments to:* Secretary, U.S. Nuclear Regulatory Commission at (301) 415–1101.
- *Mail comments to:* Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, ATTN: Rulemakings and Adjudications Staff.
- *Hand deliver comments to:* 11555 Rockville Pike, Rockville, Maryland 20852, between 7:30 a.m. and 4:15 p.m. (Eastern Time) Federal workdays; telephone: (301) 415–1677.

Draft Guidance: You may submit comments on the draft guidance by any of the following methods:

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2015–0003.
- *Mail comments to:* Cindy Bladey, Office of Administration, Mail Stop: OWFN–12–H08, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

Address questions about NRC dockets to Carol Gallagher; telephone: (301) 415–3463; email: *Carol.Gallagher@nrc.gov.* For technical questions contact the individuals listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

For additional direction on obtaining information and submitting comments, see ''Obtaining Information and Submitting Comments'' in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Gary Comfort, telephone: (301) 415–8106, email: *Gary.Comfort@nrc.gov;* or Stephen Dembek, telephone: (301) 415–2342, email: *Stephen.Dembek@nrc.gov.* Both of the Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2011–0012 (proposed rule) and Docket ID NRC–2015–0003 (draft guidance) when contacting the NRC about the availability of information for this action. You may obtain publicly-available information related to the proposed rule and draft guidance by any of the following methods:

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2011–0012 (proposed rule) or Docket ID NRC–2015–0003 (draft guidance).
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''*ADAMS Public Documents*'' and then select ''*Begin Web-based ADAMS Search.*'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, (301) 415–4737, or by email to *pdr.resource@nrc.gov.* The draft guidance, NUREG–2175, is available in ADAMS under Accession No. ML15056A516.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

B. Submitting Comments

Please include Docket ID NRC–2011–0012 (proposed rule) or Docket ID NRC–2015–0003 (draft guidance) in your comment submission.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC will post all comment submissions at *http://www.regulations.gov* as well as enter the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

II. Discussion

On March 26, 2015 (80 FR 16081), the NRC requested comment on a proposed rule that would amend its regulations that govern LLRW disposal facilities to require new and revised site-specific technical analyses, to permit the development of site-specific criteria for LLRW acceptance based on the results of those analyses, to facilitate implementation, and to better align the requirements with current health and safety standards. Also on March 26, 2015 (80 FR 15930), the NRC requested comments on draft guidance to address the implementation of the proposed regulations (NUREG–2175, ''Guidance for Conducting Technical Analyses for

10 CFR part 61''). The public comment periods for the proposed rule and draft guidance closed on July 24, 2015. The NRC has decided to reopen the public comment periods for the proposed rule and draft guidance until September 21, 2015, to allow more time for members of the public to develop and submit their comments.

Dated at Rockville, Maryland, this 19th day of August, 2015.

For the Nuclear Regulatory Commission.

Annette L. Vietti-Cook,

Secretary of the Commission.

[FR Doc. 2015–21169 Filed 8–26–15; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2015–2984; Directorate Identifier 2015–NE–21–AD]

RIN 2120–AA64

Airworthiness Directives; General Electric Company Turbofan Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for all General Electric Company (GE) GEnx–1B54, –1B58, –1B64, –1B67, and –1B70 turbofan engine models. This proposed AD was prompted by reports of two in-flight shutdowns (IFSDs) caused by high-pressure turbine (HPT) rotor stage 1 blade failure. This proposed AD would require inspection and conditional removal of affected HPT rotor stage 1 blades. We are proposing this AD to prevent failure of the HPT rotor stage 1 blades, which could lead to failure of one or more engines, loss of thrust control, and damage to the airplane.

DATES: We must receive comments on this proposed AD by October 26, 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 General Electric Company, GE Aviation, Room 285, 1 Neumann Way, Cincinnati, OH 45215; phone: 513–552–3272; email: *aviation.fleetsupport@ge.com.* You may view this service information at the FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803. For information on the availability of this material at the FAA, call 781–238–7125.

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–2015–2984; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (phone: 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Christopher McGuire, Aerospace Engineer, Engine Certification Office, FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; phone: 781–238–7120; fax: 781–238–7199; email: *chris.mcguire@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this NPRM. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2015–2984; Directorate Identifier 2015–NE–21–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this NPRM. We will consider all comments received by the closing date and may amend this NPRM 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 NPRM.

Discussion

We propose to adopt a new AD for all GE GEnx–1B54, –1B58, –1B64, –1B67, and –1B70 turbofan engine models. This proposed AD was prompted by reports of two IFSDs caused by HPT rotor stage 1 blade failure. This proposed AD would require inspection and conditional removal of affected HPT rotor stage 1 blades. This condition, if not corrected, could result in failure of the HPT rotor stage 1 blades, which could lead to failure of one or more engines, loss of thrust control, and damage to the airplane.

Related Service Information

We reviewed GE GEnx–1B Service Bulletin (SB) No. 72–0267 R00, dated April 10, 2015. The SB describes procedures for borescope inspection (BSI) of the HPT rotor stage 1 blades.

FAA's Determination

We are proposing this NPRM 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 NPRM would require initial and repetitive BSI and conditional removal of affected HPT rotor stage 1 blades.

Costs of Compliance

We estimate that this proposed AD will affect 4 engines installed on airplanes of U.S. registry. We also estimate that it will take about 2 hours per engine to comply with this proposed AD. The average labor rate is $85 per hour. Based on these figures, we estimate the total cost of this proposed AD to U.S. operators to be $680.

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 to the extent that it justifies making a regulatory distinction, and

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

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):

General Electric Company: Docket No. FAA–2015–2984; Directorate Identifier 2015–NE–21–AD.

(a) Comments Due Date

We must receive comments by October 26, 2015.

(b) Affected ADs

None.

(c) Applicability

This AD applies to all General Electric Company (GE) GEnx–1B54, –1B58, –1B64, –1B67, and –1B70 turbofan engines with high-pressure turbine (HPT) rotor stage 1 blade, part number 2305M26P06, installed.

(d) Unsafe Condition

This AD was prompted by reports of two in-flight shutdowns caused by HPT rotor stage 1 blade failure. We are issuing this AD to prevent failure of the HPT rotor stage 1 blades, which could lead to failure of one or more engines, loss of thrust control, and damage to the airplane.

(e) Compliance

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

(1) After the effective date of this AD, perform an initial borescope inspection (BSI) of the convex surface of the HPT rotor stage 1 blades for axial cracks from the platform to 30% span, within 1,000 blade cycles since new or 25 cycles in service, whichever comes later, and disposition as follows:

(i) If any axial crack with a length greater than or equal to 0.3 inch is found, or if any axial crack of any length turning in a radial direction is found, or if more than one axial crack of any length is found, remove the cracked blade before further flight.

(ii) If an axial crack is found with a length greater than or equal to 0.2 inch and less than 0.3 inch, remove the cracked blade within 10 blade cycles in service.

(iii) If an axial crack is found with a length greater than or equal to 0.1 inch and less than 0.2 inch, inspect the cracked blade within 50 blade cycles since last inspection (CSLI).

(iv) If an axial crack is found with a length less than 0.1 inch, inspect the cracked blade within 100 blade CSLI.

(v) If no cracks were found, perform a BSI of the blades within 125 blade CSLI.

(2) Thereafter, perform a repetitive BSI of the convex surface of the HPT rotor stage 1 blades for axial cracks from the platform to 30% span within 125 blade CSLI and disposition as specified in (e)(1)(i) through (e)(1)(v), or remove the blades from service.

(f) Definition

For the purpose of this AD, a ''blade cycle'' is defined as the number of engine cycles that a set of rotor blades has accrued, regardless of the engine(s) in which they have operated.

(g) Alternative Methods of Compliance (AMOCs)

The Manager, Engine Certification Office, FAA, may approve AMOCs to this AD. Use the procedures found in 14 CFR 39.19 to make your request. You may email your request to: *ANE-AD-AMOC@faa.gov.*

(h) Related Information

(1) For more information about this AD, contact Christopher McGuire, Aerospace Engineer, Engine Certification Office, FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; phone: 781–238–7120; fax: 781–238–7199; email: *chris.mcguire@faa.gov.*

(2) GE GEnx-1B Service Bulletin No. 72–0267 R00, dated April 10, 2015 can be obtained from GE using the contact information in paragraph (h)(3) of this proposed AD.

(3) For service information identified in this proposed AD, contact General Electric Company, GE Aviation, Room 285, 1 Neumann Way, Cincinnati, OH 45215; phone: 513–552–3272; email: *aviation.fleetsupport@ge.com.*

(4) You may view this service information at the FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA. For information on the availability of this material at the FAA, call 781–238–7125.

Issued in Burlington, Massachusetts, on August 21, 2015.

Colleen M. D'Alessandro,

Directorate Manager, Engine & Propeller Directorate, Aircraft Certification Service.

[FR Doc. 2015–21120 Filed 8–26–15; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2015–3620; Directorate Identifier 2015–CE–029–AD]

RIN 2120–AA64

Airworthiness Directives; Pacific Aerospace Limited Airplanes

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for certain Pacific Aerospace Limited Model 750XL airplanes that would supersede AD 2014–20–13. This proposed AD results from mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as fatigue cracks on the fin forward pickup plates, which could cause it to fail. We are issuing this proposed AD to require actions to address the unsafe condition on these products.

DATES: We must receive comments on this proposed AD by October 13, 2015.

ADDRESSES: You may send comments 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:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room

W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this proposed AD, contact Pacific Aerospace Limited, Airport Road, Hamilton, Private Bag 3027, Hamilton 3240, New Zealand, phone: +64 7 843 6144; fax: +64 7 843 6134; email: *pacific@aerospace.co.nz;* Internet: *www.aerospace.co.nz.* You may review copies of the referenced service information at the FAA, Small Airplane Directorate, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2015–3620; 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 (telephone (800) 647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Karl Schletzbaum, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4123; fax: (816) 329–4090; email: *karl.schletzbaum@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2015–3620; Directorate Identifier 2015–CE–029–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://regulations.gov,* including any personal information you provide. We will also post a report summarizing each substantive verbal contact we receive about this proposed AD.

Discussion

On September 26, 2014, we issued AD 2014–20–13, Amendment 39–17986 (79 FR 60329, October 7, 2014). That AD required actions intended to address an unsafe condition on all Pacific Aerospace Limited Model 750XL airplanes and was based on mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country.

Since we issued AD 2014–20–13, Amendment 39–17986 (79 FR 60329, October 7, 2014), Pacific Aerospace Limited has revised the related service information and developed a terminating action for the repetitive inspections.

The Civil Aviation Authority (CAA), which is the aviation authority for New Zealand, has issued AD DCA/750XL/18A, dated August 4, 2015 (referred to after this as ''the MCAI''), to correct an unsafe condition for the specified products. The MCAI states:

> DCA/750XL/18A revised to add note 2 and introduce minor editorial changes. This AD supersedes DCA/750XL/18 and DCA/750XL/16A to introduce the requirements in Pacific Aerospace Limited Mandatory Service Bulletin (MSB) PACSB/XL/068 issue 5, dated 29 June 2015. The revised MSB introduces a life limit for fin forward pickup P/N 11–10281–1 and reduces the torque setting for the fin forward pickup bolt to alleviate some of the loads applied to the pickup. The MSB also introduces a replacement fin forward pickup P/N 11–03375–1 which is not life limited.

You may examine the MCAI on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2015–3620.

Related Service Information Under 1 CFR part 51

Pacific Aerospace Limited has issued Mandatory Service Bulletin PACSB/XL/068, Issue 5, dated June 29, 2015. This service bulletin reduces the torque setting for the fin forward pickup bolt and introduces a new, improved replacement fin forward pickup plate, part number P/N 11–0375–1, to replace P/N 11–10281–1. 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 and Requirements of the Proposed AD

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to our bilateral agreement with this State of Design Authority, they have notified us of the unsafe condition described in the MCAI and service information referenced above. We are proposing this AD because we evaluated all information and determined the unsafe condition exists and is likely to exist or develop on other products of the same type design.

Costs of Compliance

We estimate that this proposed AD will affect 18 products of U.S. registry. We also estimate that it would take about 22 work-hours per product to comply with all the requirements of this proposed AD. The average labor rate is $85 per work-hour. Required parts would cost about $1,692 per product.

Based on these figures, we estimate the cost of the proposed AD on U.S. operators to be $64,116, or $3,562 per product.

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 removing Amendment 39–17986 (79 FR 60329, October 7, 2014), and adding the following new AD:

Pacific Aerospace Limited: Docket No. FAA–2015–3620; Directorate Identifier 2015–CE–029–AD.

(a) Comments Due Date

We must receive comments by October 13, 2015.

(b) Affected ADs

This AD supersedes AD 2014–20–13, Amendment 39–17986 (79 FR 60329, October 7, 2014).

(c) Applicability

This AD applies to Pacific Aerospace Limited Model 750XL airplanes, all serial numbers through XL–193, XL–195, and XL–197, certificated in any category.

(d) Subject

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

(e) Reason

This AD was prompted by mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as fatigue cracks on the fin forward pickup plates. We are issuing this AD to detect and correct cracked fin forward pickup plates to prevent failure of the fin forward pickup plates, which could result in reduced control.

(f) Actions and Compliance

Unless already done, do the actions in paragraphs (f)(1) through (f)(4) of this AD:

(1) Within the next 150 hours time-in-service (TIS) after the effective date of this AD, reduce the fin forward pickup bolt torque following the procedures in section 1.D., paragraphs A. 1) and A. 2) of the PLANNING INFORMATION in Pacific Aerospace Limited Mandatory Service Bulletin PACSB/XL/068, Issue 5, dated June 29, 2015.

(2) At or before reaching 2,000 hours total time-in-service (TTIS) or within the next 150 hours TIS after the effective date of this AD, whichever occurs later, and repetitively thereafter at intervals not to exceed 600 hours TIS or 12 months, whichever occurs first, do a detailed visual inspection and liquid penetrant inspection of the fin forward pickup plates for any evidence of cracking. Do the inspections following the procedures in sections 2.A. and 2.B. of the ACCOMPLISHMENT INSTRUCTIONS in Pacific Aerospace Limited Mandatory Service Bulletin PACSB/XL/068, Issue 5, dated June 29, 2015.

(3) If cracks are found during any inspection required in paragraph (f)(2) of this AD, before further flight, replace the fin forward pickup plates with new fin forward pickup plates, part number (P/N) 11–03375–1. Do the replacement following the procedures in section 2.C. of the ACCOMPLISHMENT INSTRUCTIONS in Pacific Aerospace Limited Mandatory Service Bulletin PACSB/XL/068, Issue 5, dated June 29, 2015. This replacement terminates the repetitive inspections required in paragraph (f)(2) of this AD.

(4) If no cracks are found during any inspection required in paragraph (f)(2) of this AD, at or before reaching 6,000 hours TTIS or within the next 600 hours TIS after the effective date of this AD, whichever occurs later, replace the fin forward pickup plates, P/N 11–10281–1, with P/N 11–03375–1. Do the replacement following the procedures in section 2.D. of the ACCOMPLISHMENT INSTRUCTIONS in Pacific Aerospace Limited Mandatory Service Bulletin PACSB/XL/068, Issue 5, dated June 29, 2015. This replacement terminates the repetitive inspections required in paragraph (f)(2) of this AD .

(g) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, Standards Office, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Karl Schletzbaum, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4146; fax: (816) 329–4090; email: *karl.schletzbaum@faa.gov.* Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

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

(h) Related Information

Refer to MCAI Civil Aviation Authority (CAA) AD DCA/750XL/18A, dated August 4, 2015, for related information. You may examine the MCAI on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2015–3620. For service information related to this AD, contact Pacific Aerospace Limited, Airport Road, Hamilton, Private Bag 3027, Hamilton 3240, New Zealand, phone: +64 7 843 6144; fax: +64 7 843 6134; email: *pacific@aerospace.co.nz;* Internet: *www.aerospace.co.nz.* You may review copies of the referenced service information at the FAA, Small Airplane Directorate, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148.

Issued in Kansas City, Missouri, on August 14, 2015.

Earl Lawrence,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2015–21097 Filed 8–26–15; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2015–3148; Directorate Identifier 2014–NM–254–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus 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 Airbus Model A320–212, –214, –232, and –233 airplanes. This proposed AD was prompted by a report of a crack found during an inspection of the pocket radius of the fuselage frame. This proposed AD would require repetitive low frequency eddy current inspections or repetitive high frequency eddy current inspections of this area, and repair if necessary. The repair terminates the repetitive inspections. We are proposing this AD to detect and correct any cracking of the pocket radius, which could lead to in-flight decompression of the airplane and possible injury to the passengers.

DATES: We must receive comments on this proposed AD by October 13, 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:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this proposed AD, contact Airbus, Airworthiness Office—EIAS, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 44 51; email *account.airworth-eas@airbus.com;* Internet *http://www.airbus.com.* You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

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–2015–3148; 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 Operations office (telephone 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Sanjay Ralhan, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone 425–227–1405; fax 425–227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2015–3148; Directorate Identifier 2014–NM–254–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 based on 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

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued EASA Airworthiness Directive 2014–0278, dated December 19, 2014 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for certain Airbus Model A320–212, -214, -232, and -233 airplanes. The MCAI states:

> An operator reported finding a crack during an inspection in accordance with the instructions of Airbus Alert Operators Transmission (AOT) A53N007–14. What was found, a 170 mm through-thickness crack in the pocket radius between frame 36 and 37 above stringer 6 on left hand (LH) side lap joint, was not the aim of the AOT inspection. Prior to this finding, the operator reported noise in the affected area during several weeks.
>
> This condition, if not detected and corrected, could lead to in-flight decompression of the aeroplane, possibly resulting in injury to occupants.
>
> To address this unsafe condition, Airbus published AOT A53N009–14 to provide inspection and repair instructions to detect and prevent crack propagation.
>
> EASA decided to agree on a sampling inspection to determine whether additional aeroplanes need to be inspected.
>
> For the reasons described above, this [EASA] AD requires, for the selected aeroplanes, repetitive Low Frequency Eddy Current (LFEC) or High Frequency Eddy Current (HFEC) inspections of the pocket radii [for cracks] located between fuselage frames 35 and 40, above stringer 6 on both LH and right hand (RH) sides and, depending on findings, accomplishment of repair instructions.
>
> This [EASA] AD is considered an interim action and further [EASA] AD action may follow.

You may examine the MCAI in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2015–3148.

Related Service Information Under 1 CFR Part 51

We reviewed Airbus Alert Operators Transmission A53N009–14, dated December 17, 2014. The service information describes procedures for repetitive inspections of the pocket radii located between fuselage frames 35 and 40, above stringer 6 on both the left- and right-hand sides, and repair if necessary. 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 and Requirements of This Proposed AD

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to our bilateral agreement with the State of Design Authority, we have been notified of the unsafe condition described in the MCAI and service information referenced above. We are proposing this AD because we evaluated all pertinent information and determined an unsafe condition exists and is likely to exist or develop on other products of the same type design.

Costs of Compliance

We estimate that this proposed AD affects 1 airplane of U.S. registry.

We also estimate that it would take about 3 work-hours per product to comply with the basic requirements of this proposed AD. The average labor rate is $85 per work-hour. Based on these figures, we estimate the cost of this proposed AD on U.S. operators to be $255, or $255 per product.

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):

Airbus: Docket No. FAA–2015–3148; Directorate Identifier 2014–NM–254–AD.

(a) Comments Due Date

We must receive comments by October 13, 2015.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Airbus Model A320–212 airplanes having manufacturer serial number (MSN) 1011; Airbus Model A320–214 airplanes having MSNs 1009, 1026 and 1030; Airbus Model A320–232 airplanes having MSN 0977; and Airbus Model A320–233 airplanes having MSNs 1007 and 1013, certificated in any category.

(d) Subject

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

(e) Reason

This AD was prompted by a report of a crack found during an inspection of the pocket radius of the fuselage frame. We are issuing this AD to detect and correct any cracking of the pocket radius, which could lead to in-flight decompression of the airplane and possible injury to the passengers.

(f) Compliance

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

(g) Repetitive Inspections

(1) Within 750 flight cycles or 4 months, whichever occurs first after the effective date of this AD: Do a low frequency eddy current (LFEC) inspection or a high frequency eddy current (HFEC) inspection for cracking of the pocket radii located between fuselage frames 35 and 40, above stringer 6 on both the left- and right-hand sides, in accordance with the instructions of Airbus Alert Operators Transmission (AOT) A53N009–14, dated December 17, 2014. Repeat the inspection, thereafter, at intervals not to exceed the times specified in paragraphs (g)(1)(i) and (g)(1)(ii) of this AD.

(i) For the LFEC inspection performed on the outside: Repeat the inspection at intervals not to exceed 1,000 flight cycles.

(ii) For the HFEC inspection performed on the inside: Repeat the inspection at intervals not to exceed 2,000 flight cycles.

(h) Corrective Action

If, during any inspection required by paragraph (g) of this AD, any crack is found, before further flight, accomplish the repair in accordance with the instructions of Airbus AOT A53N009–14, dated December 17, 2014; except if the crack is beyond the structural repair manual limits as specified in Airbus AOT A53N009–14, dated December 17, 2014, before further flight, repair using a method approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA; or the European Aviation Safety Agency (EASA); or Airbus's EASA Design Organization Approval (DOA).

(i) Terminating Action

Repair of an airplane as required by paragraph (h) of this AD terminates the repetitive inspections required by paragraph (g) of this AD for the repaired area only.

(j) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Branch, ANM–116, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the International Branch, send it to ATTN: Sanjay Ralhan, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone 425–227–1405; fax 425–227–1149. Information may be emailed to: *9–ANM–116–AMOC–REQUESTS@faa.gov*. Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office. The AMOC approval letter must specifically reference this AD.

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain corrective actions from a manufacturer, the action must be accomplished using a method approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA; or the EASA; or Airbus's EASA DOA. If approved by the DOA, the approval must include the DOA-authorized signature.

(k) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) EASA Airworthiness Directive 2014–0278, dated December 19, 2014, for related information. This MCAI may be found in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2015–3148.

(2) For service information identified in this AD, contact Airbus, Airworthiness Office—EIAS, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 44 51; email *account.airworth-eas@airbus.com;* Internet *http://www.airbus.com.* You may view this 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 19, 2015.

Kevin Hull,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2015–21098 Filed 8–26–15; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2015–3322; Airspace Docket No. 15–ANM–16]

Proposed Establishment of Class E Airspace; Vancouver, WA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to establish Class E surface area airspace at Pearson Field, Vancouver, WA, to accommodate existing Standard Instrument Approach Procedures (SIAPs) at the airport. The FAA is taking this action to enhance the safety and

management of Instrument Flight Rules (IFR) operations at the airport.

DATES: Comments must be received on or before October 13, 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–2015–3322; Airspace Docket No. 15–ANM–16, 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/.* For further information, you can contact the Airspace Policy and ATC Regulations Group, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 29591; telephone: 202–267–8783. 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 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 establish Class E airspace at Pearson Field, Vancouver, WA.

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–2015–3322; Airspace Docket No. 15–ANM–16.'' 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 establishing Class E surface area airspace at Pearson Field, Vancouver, WA. A review of the airspace revealed establishment necessary due to current standard instrument approach procedures not contained within controlled airspace.

Class E surface area airspace would be established to an area 4.9 miles west, 4 miles east, 2.9 miles north, and 1.8 miles south of Pearson Field.

Class E airspace designations are published in paragraph 6002 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 6002 Class E Airspace Designated as Surface Areas

* * * * *

ANM OR E2 Vancouver, WA [New]

Pearson Field, WA
(Lat. 45°37′14″ N., long. 122°39′23″ W.)

That airspace extending upward from the surface bounded by a line beginning at lat. 45°36′06″ N., long. 122°46′29″ W.; to lat. 45°38′27″ N., long. 122°46′19″ W.; to lat. 45°40′21″ N., long. 122°44′08″ W.; to lat. 45°39′49″ N., long. 122°33′23″ W.; to lat. 45°34′51″ N., long. 122°33′53″ W.; thence to the point of beginning.

Issued in Seattle, Washington, on August 19, 2015.

Christopher Ramirez,

Manager, Operations Support Group, Western Service Center.

[FR Doc. 2015–21089 Filed 8–26–15; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2015–3084; Airspace Docket No. 15–AGL–13]

Proposed Establishment of Class E Airspace; International Falls, MN

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to establish Class E en route domestic airspace in the International Falls, MN area, to facilitate vectoring of Instrument Flight Rules (IFR) aircraft under control of Minneapolis Air Route Traffic Control Center (ARTCC). The FAA is proposing this action to enhance the safety and efficiency of aircraft operations within the National Airspace System (NAS).

DATES: Comments must be received on or before October 13, 2015.

ADDRESSES: Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001. You must identify the docket number FAA–2015–3084/Airspace Docket No. 15–AGL–13, 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: Raul Garza, Jr., Central Service Center, Operations Support Group, Federal Aviation Administration, Southwest Region, 2601 Meacham Blvd., Fort Worth, TX 76137; telephone: 817–222–4075.

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 establish Class E airspace in the International Falls, MN, area.

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–2015–3084/Airspace Docket No. 15–AGL–13.'' 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 **ADDRESSES** section for 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 office of the Central Service Center, 2601 Meacham Blvd., Fort Worth, TX 76137.

Persons interested in being placed on a mailing list for future NPRMs should contact the FAA's Office of Rulemaking (202) 267–9677, to request 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

This action proposes to amend Title 14, Code of Federal Regulations (14 CFR), Part 71 by establishing Class E en route domestic airspace extending upward from 1,200 feet above the surface in the International Falls, MN area. This action would contain aircraft while in IFR conditions under control of Minneapolis ARTCC by safely vectoring aircraft from en route airspace to terminal areas.

Class E airspace areas are published in Paragraph 6006 of FAA Order 7400.9Y, August 6, 2014, and effective September 15, 2014, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in the Order.

Regulatory Notices and Analyses

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (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 that this rule, when promulgated, will 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

In consideration of the foregoing, 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 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 6006 En Route Domestic Airspace Areas

* * * * *

AGL MN E6 International Falls, MN [New]

That airspace extending upward from 1,200 feet above the surface within an area bounded by lat. 49°00′00″ N., long. 095°00′00″ W.; to lat. 49°00′00″ N., long. 093°30′00″ W.; to lat. 48°06′30″ N., long. 090°06′00″ W.; to lat. 47°53′00″ N., long. 090°55′00″ W.; to lat. 48°34′00″ N., long. 094°00′00″ W.; to lat. 48°40′00″ N., long. 095°00′00″ W., thence to the point of beginning, excluding that airspace within Federal airways.

Issued in Fort Worth, TX, on August 13, 2015.

Robert W. Beck,

Manager, Operations Support Group, ATO Central Service Center.

[FR Doc. 2015–21087 Filed 8–26–15; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

15 CFR Part 922

Initiation of Review of Management Plan and Regulations of the Monterey Bay National Marine Sanctuary; Intent To Conduct Scoping and Prepare Draft Environmental Impact Statement and Management Plan

AGENCY: Office of National Marine Sanctuaries (ONMS), National Ocean Service (NOS), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce (DOC).

ACTION: Initiation of review of management plan and regulations; intent to conduct scoping and prepare environmental impact statement.

SUMMARY: Monterey Bay National Marine Sanctuary (MBNMS or sanctuary) was designated in September 1992. It spans 4,601 square nautical miles (6.094 square miles) of marine waters off the central California coast, encompassing several large, nearshore submarine canyons, an offshore seamount and numerous marine habitats representative of the central California coastal and marine ecosystem. The present management plan was written and published in 2008 along with a final environmental impact statement in accordance with the National Environmental Policy Act (NEPA). In accordance with Section 304(e) of the National Marine Sanctuaries Act, as amended, (NMSA), the Office of National Marine Sanctuaries (ONMS) of the National Oceanic and Atmospheric Administration (NOAA) is initiating a review of the MBNMS management plan, to evaluate substantive progress toward implementing the goals for the sanctuary, and to make revisions to the plan and regulations as necessary to fulfill the purposes and policies of the NMSA. NOAA anticipates regulatory and management plan changes will require preparation of an environmental analysis under the National Environmental Policy Act (NEPA). NOAA will conduct public scoping meetings to gather information and other comments from individuals, organizations, tribes, and government agencies on the scope, types and significance of issues related to the MBNMS management plan and regulations and the proper scope of environmental review for the project. The scoping meetings are scheduled as detailed below.

DATES: Written comments should be received on or before October 30, 2015.

Scoping meetings will be held on:

(1) September 10, 6–8 p.m., Monterey Conference Center, Monterey, CA.

(2) September 23, 6–8 p.m., Louden Nelson Center, Santa Cruz, CA.

(3) October 23, 6–8 p.m., Veteran's Memorial Hall, Cambria, CA.

ADDRESSES: You may submit comments on this document, identified by NOAA–NOS–2015–0999, 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-NOS-2015-0999,* click the ''Comment Now!'' icon, complete the required fields, and enter or attach your comments.

• *Mail:* 99 Pacific Street, Bldg. 455A, Monterey, California 93940, Attn: Paul Michel, Superintendent.

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 NOAA. 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. NOAA will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous).

FOR FURTHER INFORMATION CONTACT: Dawn Hayes, 831.647.4256, *mbnmsmanagementplan@noaa.gov.*

SUPPLEMENTARY INFORMATION: Reviewing the MBNMS management plan may result in proposed changes to existing plans and policies to address contemporary issues and challenges, and better protect and manage the sanctuary's resources and qualities. The review process is composed of four major stages: (1) Information collection and characterization; (2) preparation and release of a draft management plan and environmental impact statement, and any proposed amendments to the regulations; (3) public review and comment; (4) preparation and release of a final management plan and environmental document, and any final amendments to the regulations. NOAA will also address other statutory and regulatory requirements that may be required pursuant to the Endangered Species Act, Marine Mammal Protection Act, Essential Fish Habitat provisions of the Magnuson-Stevens Act, and the National Historic Preservation Act.

Preliminary Priority Topics

NOAA has prepared a preliminary list of priority topics to consider during the MBNMS management plan review process. We are interested in public comment on these topics, as well as any other topics of interest to the public or other agencies in the context of the MBNMS management plan review. This list does not preclude or in any way limit the consideration of additional topics raised through public comment, government-to-government and interagency consultations, and discussions with partner agencies.

Collaborative Research and Management

There is a continuing need for characterization, research and monitoring to understand baseline conditions of marine resources within the sanctuary, ecosystem functions, and status and trends of biological and socioeconomic resources. NOAA relies on the continued support of multiple partners and volunteers, and strives to address critical resource protection through collaborative multi-stakeholder management efforts. In addition to updating existing action plans in the management plan, NOAA is considering adding strategies and activities to address the following issues:

Climate Change—Climate change is widely acknowledged, yet there is considerable uncertainty about current and future consequences at local, ecosystem and oceanic scales. Increased coordination and cooperation among science and resource management agencies are required to improve planning, monitoring and adaptive management to address this phenomenon as it pertains to the protection of MBNMS resources.

Wildlife Disturbance—MBNMS is an active area with abundant human use, offering some of the most significant marine wildlife viewing in the world. NOAA is concerned about a variety of human activities that have the ability to disturb marine wildlife. The harassment of wildlife, in particular marine mammals, has increased in recent years due to increased numbers (and proximity) of certain whale species and humans involved in on-the-water activities. Impacts to the MBNMS soundscape are also a concern, as the cumulative effects of underwater noise generated by a variety of human activities have grown over the past half century. Expanded use of unmanned aircraft systems over the sanctuary may also require additional analysis to determine the degree to which these aircraft may, or may not, be causing harm to wildlife.

Water Quality Protection—Water quality is key to ensuring protection for all sanctuary resources. Given the level of coastal development along MBNMS's extensive coastline, runoff of contaminants such as sediments, nutrients, fecal bacteria, pesticides, oil, grease, metals, and detergents from the approximately 7,000 square miles of coastal watershed areas makes the sanctuary vulnerable to coastal water pollution problems. Although MBNMS has an award-winning water quality protection program, NOAA believes that more focused attention on specific water quality issues is needed, as well as a coordinated regional monitoring program to provide meaningful information on conditions, trends, and contaminant loads.

Marine Debris—Coastal marine debris is a persistent and poorly diagnosed problem within the sanctuary that negatively impacts natural and socioeconomic resources and qualities, including marine mammals, turtles and seabirds. NOAA is seeking input on innovative source controls and cleanups could help minimize impacts to sanctuary waters and habitats.

Regulatory Changes and Clarifications

NOAA is considering several modifications to MBNMS regulations and definitions to facilitate resource protection, clarify legal intent, and enhance public understanding. These include: Clarifying the extent of the shoreward sanctuary boundary line and the means by which some of the zones within MBNMS are delineated; clarifying the intent of the prohibition on the take of historical resources; and prohibiting tampering with MBNMS signage and buoys. Other regulatory changes may be considered based on public scoping comments and staff work to adjust various action plans within the management plan.

Other potential regulatory modifications on which NOAA is seeking public input include:

(1) Reducing the required High Surf Warning (HSW) condition for Motorized Personal Watercraft operations at Mavericks to a High Surf Advisory (HSA) condition.

(2) Minimizing disturbance from low overflights in the area of the Common Murre colony at Devil's Slide, a restoration site just beyond the MBNMS boundary line at Point San Pedro (San Mateo County).

(3) Designating of specific zones where fireworks may be permitted within MBNMS.

(4) Updating regulations to clarify the extent of the shoreward sanctuary boundary line.

(5) Ensuring that salvers operating within MBNMS meet minimum industry standards for safety, liability, capacity, and environmentally sensitive salvage techniques during both emergency and non-emergency operations.

(6) Clarifying the definition of ''cruise ship'' to include not only ships with berths for hire as is currently defined, but also ships with condominiums under private ownership.

(7) Clarifying the intent and applicability of the existing prohibition on deserting a vessel in MBNMS.

Education, Outreach and Citizen Science

Enhancing the public's awareness and appreciation of sanctuary resources is a cornerstone of MBNMS's mission. Recent initiatives, such as visitor centers, video media production, and partnering with recreation and tourism industry offer opportunities for NOAA and other entities to expand educational and outreach contributions and reach larger audiences. NOAA is seeking the public's view on developing and enhancing programs designed to enhance public awareness, including opportunities to participate in environmental research and monitoring.

Condition Report

To inform the MBNMS management plan review, NOAA is updating the Monterey Bay National Marine Sanctuary Condition Report, which was first published in 2009. The 2009 report provided a summary of resources in MBNMS, pressures on those resources, current conditions and recent trends within the Sanctuary, and management responses to mitigate negative impacts. The 2015 Condition Report will update current conditions and recent changes for water quality, habitat, living resources and maritime archaeological resources in the sanctuary. It will also include an assessment of the Davidson Seamount Management Zone which NOAA added to MBNMS in 2009.

A summary of the 2015 Condition Report will be available to the general public during the public scoping period and on the Internet at: *http://sanctuaries.noaa.gov/science/condition/welcome.html.* The final report will be made available in late December 2015 on the same Web site.

Public Comments

NOAA is interested in hearing the public's view on:

- The potential impacts of the proposed actions discussed above and ways to mitigate these impacts.
- The topics discussed above for the next five to ten years and whether these are the right topics, the priority topics, or if there are additional topics NOAA should consider.
- The effectiveness of the existing management plan in meeting both the mandates of the NMSA and MBNMS goals and objectives.
- The public's view on the effectiveness of the MBNMS programs, including programs focused on: Resource protection; research and monitoring; education; volunteer; and outreach.
- NOAA's implementation of MBNMS regulations and permits.
- Adequacy of existing boundaries to protect sanctuary resources.
- Assessment of the existing operational and administrative framework (staffing, offices, vessels, etc.).

Federal Consultations

This document also advises the public that NOAA will coordinate its consultation responsibilities under section 7 of the Endangered Species Act (ESA), Essential Fish Habitat (EFH) under the Magnuson Stevens Fishery Conservation and Management Act (MSA), section 106 of the National Historic Preservation Act (NHPA, 16 U.S.C. 470), and Federal Consistency review under the Coastal Zone Management Act (CZMA), along with its ongoing NEPA process including the use of NEPA documents and public and stakeholder meetings to also meet the requirements of other federal laws.

In fulfilling its responsibility under the NHPA and NEPA, NOAA intends to identify consulting parties; identify historic properties and assess the effects of the undertaking on such properties; initiate formal consultation with the State Historic Preservation Officer, the Advisory Council of Historic Preservation, and other consulting parties; involve the public in accordance with NOAA's NEPA procedures, and develop in consultation with identified consulting parties alternatives and proposed measures that might avoid, minimize or mitigate any adverse effects on historic properties and describe them in any environmental assessment or draft environmental impact statement.

Authority: 16 U.S.C. 1431 *et seq.*

Dated: August 20, 2015.

John Armor,

Acting Director, Office of National Marine Sanctuaries.

[FR Doc. 2015–21132 Filed 8–26–15; 8:45 am]

BILLING CODE 3510–NK–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–109813–11]

RIN 1545–BK18

Residence Rules Involving U.S. Possessions

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed amendments to the regulations for determining whether an individual is a bona fide resident of a U.S. territory. These proposed amendments affect individuals establishing bona fide residency in a U.S. territory by allowing additional days of constructive presence in a U.S. territory.

DATES: Written or electronic comments and requests for a public hearing must be received by November 25, 2015.

ADDRESSES: Send submissions to: CC:PA:LPD:PR (REG–109813–11), room 5203, Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand-delivered Monday through Friday between the hours of 8 a.m. and 4 p.m. to CC:PA:LPD:PR (REG–109813–11), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC, or sent electronically, via the Federal eRulemaking Portal at *www.regulations.gov* (IRS REG–109813–11).

FOR FURTHER INFORMATION CONTACT: Concerning the proposed regulations, Stephen Huggs, (202) 317–6941; concerning submission of comments and/or requests for a hearing, Oluwafunmilayo (Funmi) Taylor, (202) 317–6901 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed amendments to the Income Tax Regulations (26 CFR part 1) under section 937 of the Internal Revenue Code (Code). Section 937 was added to the Code by the American Jobs Creation Act of 2004 (Public Law 108–357, 118

Stat. 1418 (2004)). Section 937(a) provides rules for determining if an individual is a bona fide resident of a U.S. possession (generally referred to in this preamble as a ''U.S. territory'').

On April 11, 2005, the **Federal Register** published temporary regulations (TD 9194, 70 FR 18920) and proposed regulations (REG–159243–03, 70 FR 18949) under section 937, providing rules to implement section 937 and conforming existing regulations to other legislative changes with respect to the U.S. territories. On January 31, 2006, the **Federal Register** published final regulations (TD 9248, 71 FR 4996) under section 937(a) concerning whether an individual is a bona fide resident of a U.S. territory. Section 1.937–1 was amended on November 14, 2006, and on April 9, 2008, to provide additional guidance concerning bona fide residency in the U.S. territories. See TD 9297 (71 FR 66232) and TD 9391 (73 FR 19350).

Section 937(a) provides that an individual is a bona fide resident of a U.S. territory if the individual meets a presence test, a tax home test, and a closer connection test. In order to satisfy the presence test, an individual must be present in the U.S. territory for at least 183 days during the taxable year (183-day rule), unless otherwise provided in regulations.

Section 1.937–1 provides several alternatives to the 183-day rule. An individual who does not satisfy the 183-day rule nevertheless meets the presence test if the individual satisfies one of four alternative tests: (1) The individual is present in the relevant U.S. territory for at least 549 days during the three-year period consisting of the current taxable year and the two immediately preceding taxable years, provided the individual is present in the U.S. territory for at least 60 days during each taxable year of the period; (2) the individual is present no more than 90 days in the United States during the taxable year; (3) the individual has no more than $3,000 of earned income from U.S. sources and is present for more days in the U.S. territory than in the United States during the taxable year; or (4) the individual has no significant connection to the United States during the taxable year. The term ''significant connection'' is generally defined as a permanent home, voter registration, spouse, or minor child in the United States. See § 1.937–1(c)(5). Section 1.937–1 also provides that certain days count as days of presence in the relevant U.S. territory for purposes of the presence test, even if the individual is not physically present in the U.S. territory (constructive presence).

Explanation of Provisions

Following the original issuance of § 1.937–1, the Department of the Treasury (Treasury Department) and the Internal Revenue Service (IRS) received comments requesting that the presence test be revisited to make it more flexible. These comments included a proposal to allow days of constructive presence for business or personal travel outside of the relevant U.S. territory. The Treasury Department and the IRS have concluded that it would be appropriate to allow additional days of constructive presence subject to certain limitations. Accordingly, these proposed regulations provide an additional rule for calculating days of presence in the relevant U.S. territory for purposes of the presence test in § 1.937–1(c)(1).

Under the proposed amendment, an individual would be considered to be present in the relevant U.S. territory for up to 30 days during which the individual is outside of both the United States and the relevant U.S. territory. The proposed amendment would not apply, however, if the number of days that the individual is considered to be present in the United States during the taxable year equals or exceeds the number of days that the individual is considered to be present in the relevant U.S. territory during the taxable year, determined without taking into account any days for which the individual would be treated as present in the U.S. territory under this proposed amendment. Furthermore, the 30-day constructive presence rule would not apply for purposes of calculating the minimum 60 days of presence in the relevant U.S. territory that is required for the 549-day test under § 1.937–1(c)(1)(ii). Therefore, an individual invoking § 1.937–1(c)(1)(ii) must otherwise be considered to have been present at least 60 days in the relevant U.S. territory in each of the three years in order to benefit from the 30-day constructive presence rule.

Proposed Effective/Applicability Date

These amendments to the regulations are proposed to apply to taxable years beginning after the date these regulations are published as final regulations in the **Federal Register**.

Reliance on Proposed Regulations

Until these regulations are published as final regulations in the **Federal Register**, taxpayers may rely on these proposed regulations with respect to taxable years beginning on or after the date these proposed regulations are published in the **Federal Register**.

Special Analyses

Certain IRS regulations, including this one, are exempt from the requirements of Executive Order 12866, as supplemented and reaffirmed by Executive Order 13563. Therefore, a regulatory impact assessment is not required. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations, and because the regulations do not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Pursuant to section 7805(f) of the Code, this regulation has been submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Comments and Requests for Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any comments that are submitted timely to the IRS as prescribed in this preamble under the **ADDRESSES** heading. The Treasury Department and the IRS request comments on all aspects of the proposed rules. All comments will be available at *www.regulations.gov* or upon request. A public hearing will be scheduled if requested in writing by any person that timely submits written comments. If a public hearing is scheduled, notice of the date, time, and place for the public hearing will be published in the **Federal Register**.

Drafting Information

The principal author of these proposed regulations is Cleve Lisecki, formerly of the Office of Associate Chief Counsel (International). However, other personnel from the Treasury Department and the IRS participated in their development.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

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

PART 1—INCOME TAXES

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

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

Section 1.937–1 also issued under 26 U.S.C. 937(a). * * *

■ **Par. 2.** Section 1.937–1 is amended as follows:

■ 1. Revising paragraph (c)(3)(i)(B) and paragraph (c)(3)(i)(C)(*2*).

■ 2. Adding paragraph (c)(3)(i)(D).

■ 3. Revising *Example 1* of paragraph (g).

■ 4. Redesignating *Examples 2* through *10* of paragraph (g) as *Examples 5* through *13* respectively.

■ 5. Adding new *Examples 2, 3,* and *4* to paragraph (g).

■ 6. Revising newly re-designated *Example 5* of paragraph (g).

■ 7. Adding a new sentence to the end of paragraph (i).

The revisions and additions read as follows:

§ 1.937–1 Bona fide residency in a possession.

* * * * *

(c) * * *

(3) * * *

(i) * * *

(B) Any day that an individual is outside of the relevant possession to receive, or to accompany on a full-time basis a parent, spouse, or child (as defined in section 152(f)(1)) who is receiving, qualifying medical treatment as defined in paragraph (c)(4) of this section;

(C) * * *

(*1*) * * *

(*2*) Period for which a mandatory evacuation order is in effect for the geographic area in the relevant possession in which the individual's place of abode is located; and

(D) Any day not described in paragraph (c)(3)(i)(B) or (C) of this section that an individual is outside of the United States and the relevant possession, except that an individual will not be considered present in the relevant possession under this paragraph (c)(3)(i)(D) for more than 30 days during the taxable year, and this paragraph (c)(3)(i)(D) does not apply for purposes of calculating the required minimum 60 days of presence in the relevant possession under paragraph (c)(1)(ii) of this section. Furthermore, this paragraph (c)(3)(i)(D) applies only if the number of days that the individual is considered to be present in the relevant possession during the taxable year, determined without regard to this paragraph (c)(3)(i)(D), exceeds the number of days that the individual is considered to be present in the United States during the taxable year.

* * * * *

(g) * * *

Example 1. Presence test. H, a U.S. citizen, is engaged in a profession that requires frequent travel. In each of the years 2016 and 2017, H spends 195 days in Possession N and the balance of the year in the United States. In 2018, H spends 160 days in Possession N and the balance of the year in the United States. Thus, H spends a total of 550 days in Possession N for the three-year period consisting of years 2016, 2017, and 2018. Under paragraph (c)(1)(ii) of this section, H satisfies the presence test of paragraph (c) of this section with respect to Possession N for taxable year 2018 because H is present in Possession N for more than the required 549 days during the three-year period of 2016 through 2018 and is present in Possession N for at least 60 days during each of those taxable years. Assuming that in 2018 H does not have a tax home outside of Possession N and does not have a closer connection to the United States or a foreign country under paragraphs (d) and (e) of this section respectively, then regardless of whether H was a bona fide resident of Possession N in 2016 and 2017, H is a bona fide resident of Possession N for taxable year 2018.

Example 2. Presence test. Same facts as *Example 1,* except that in 2018, H spends 130 days in Possession N, 110 days in foreign countries, and 125 days in the United States. Because H satisfies the requirements of paragraph (c)(3)(i)(D) of this section, 30 of the days spent in foreign countries during 2018 are treated as days of presence in Possession N. Thus, H will be treated as being present for 160 days in Possession N for 2018. Under paragraph (c)(1)(ii) of this section, H meets the presence test of paragraph (c) of this section with respect to Possession N for taxable year 2018 because H is present in Possession N for 550 days (more than the required 549 days) during the three-year period of 2016 through 2018 and is present in Possession N for at least 60 days in each of those taxable years. As in *Example 1,* assuming that in 2018 H does not have a tax home outside of Possession N and does not have a closer connection to the United States or a foreign country under paragraphs (d) and (e) of this section respectively, then regardless of whether H was a bona fide resident of Possession N in 2016 and 2017, H is a bona fide resident of Possession N in 2018.

Example 3. Presence test. Same facts as *Example 1,* except that in 2018, H spends 130 days in Possession N, 100 days in foreign countries, and 135 days in the United States. Under these facts, H does not satisfy paragraph (c)(1)(ii) of this section for taxable year 2018 because H is present in Possession N for only 520 days (less than the required 549 days) during the three-year period of 2016 through 2018. The rule of paragraph (c)(3)(i)(D) of this section (treating up to 30 days spent in foreign countries as days of presence in Possession N) is not available because H fails to satisfy the condition that H be present more days in Possession N than in the United States during 2018, determined without regard to the application of paragraph (c)(3)(i)(D) of this section.

Example 4. Presence test. Same facts as *Example 1,* except that in 2016, H spends 360 days in Possession N and six days in the United States; in 2017, H spends 45 days in Possession N, 290 days in foreign countries, and 30 days in the United States; and in 2018, H spends 180 days in Possession N and 185 days in the United States. Under these facts, H does not satisfy paragraph (c)(1)(ii) of this section for taxable year 2018. During the three-year period from 2016 through 2018, H is present in Possession N for 615 days, including 30 of the days spent in foreign countries in 2017, which are treated under paragraph (c)(3)(i)(D) of this section as days of presence in Possession N. Although H is present in Possession N for more than the required 549 days during the three-year period, H is only present for 45 days in Possession N during one of the taxable years (2017) of the period, less than the 60 days of minimum presence required under paragraph (c)(1)(ii) of this section. The rule of paragraph (c)(3)(i)(D) of this section does not apply for purposes of determining whether H is present in Possession N for the 60-day minimum required under paragraph (c)(1)(ii) of this section.

Example 5. Presence test. W, a U.S. citizen, owns a condominium in Possession P where she spends part of the taxable year. W also owns a house in State N near her grown children and grandchildren. W is retired and her income consists solely of pension payments, dividends, interest, and Social Security benefits. For 2016, W spends 145 days in Possession P, 101 days in Europe and Asia on vacation, and 120 days in State N. For taxable year 2016, W is not present in Possession P for at least 183 days, is present in the United States for more than 90 days, and has a significant connection to the United States by reason of her permanent home. However, under paragraph (c)(1)(iv) of this section, W still satisfies the presence test of paragraph (c) of this section with respect to Possession P for taxable year 2016 because she has no earned income in the United States and is present for more days in Possession P than in the United States.

* * * * *

(i) * * * Notwithstanding the foregoing, paragraph (c)(3)(i)(D) and *Examples 1, 2, 3, 4,* and *5* of paragraph (g) of this section apply for taxable years beginning after the date these regulations are published as final regulations in the **Federal Register**.

John Dalrymple,

Deputy Commissioner for Services and Enforcement.

[FR Doc. 2015–21258 Filed 8–26–15; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–136459–09]

RIN 1545–BI90

Amendments to Domestic Production Activities Deduction Regulations; Allocation of W–2 Wages in a Short Taxable Year and in an Acquisition or Disposition

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking, notice of proposed rulemaking by cross reference to temporary regulations and notice of public hearing.

SUMMARY: This document contains proposed regulations involving the domestic production activities deduction under section 199 of the Internal Revenue Code (Code). The proposed regulations provide guidance to taxpayers on the amendments made to section 199 by the Energy Improvement and Extension Act of 2008 and the Tax Extenders and Alternative Minimum Tax Relief Act of 2008, involving oil related qualified production activities income and qualified films, and the American Taxpayer Relief Act of 2012, involving activities in Puerto Rico. The proposed regulations also provide guidance on: Determining domestic production gross receipts; the terms manufactured, produced, grown, or extracted; contract manufacturing; hedging transactions; construction activities; allocating cost of goods sold; and agricultural and horticultural cooperatives. In the Rules and Regulations of this issue of the **Federal Register**, the Treasury Department and the IRS also are issuing temporary regulations (TD 9731) clarifying how taxpayers calculate W–2 wages for purposes of the W–2 wage limitation in the case of a short taxable year or an acquisition or disposition of a trade or business (including the major portion of a trade or business, or the major portion of a separate unit of a trade or business) during the taxable year. This document also contains a notice of a public hearing on the proposed regulations.

DATES: Written or electronic comments must be received by November 25, 2015. Outlines of topics to be discussed at the public hearing scheduled for December 16, 2015, at 10:00 a.m., must be received by November 25, 2015.

ADDRESSES: Send submissions to: CC:PA:LPD:PR (REG–136459–09), Room 5203, Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand-delivered Monday through Friday between the hours of 8 a.m. and 4 p.m. to CC:PA:LPD:PR (REG–136459–09), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC, or sent electronically, via the Federal eRulemaking Portal at *http://www.regulations.gov* (IRS REG–136459–09). The public hearing will be held in the Auditorium of the Internal Revenue Building, 1111 Constitution Avenue NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Concerning §§ 1.199–1(f), 1.199–2(c), 1.199–2(e), 1.199–2(f), 1.199–3(b), 1.199–3(e), 1.199–3(h), 1.199–3(k), 1.199–3(m), 1.199–6(m), and 1.199–8(i) of the proposed regulations, James Holmes, (202) 317–4137; concerning § 1.199–4(b) of the proposed regulations, Natasha Mulleneaux (202) 317–7007; concerning submissions of comments, the hearing, or to be placed on the building access list to attend the hearing, Regina Johnson, at (202) 317–6901 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed amendments to §§ 1.199–0, 1.199–1, 1.199–2, 1.199–3, 1.199–4(b), 1.199–6, and 1.199–8(i) of the Income Tax Regulations (26 CFR part 1). Section 1.199–1 relates to income that is attributable to domestic production activities. Section 1.199–2 relates to W–2 wages as defined in section 199(b). Section 1.199–3 relates to determining domestic production gross receipts (DPGR). Section 1.199–4(b) describes the costs of goods sold allocable to DPGR. Section 1.199–6 applies to agricultural and horticultural cooperatives. Section 1.199–8(i) provides the effective/applicability dates.

Section 199 was added to the Code by section 102 of the American Jobs Creation Act of 2004 (Pub. L. 108–357, 118 Stat. 1418 (2004)), and amended by section 403(a) of the Gulf Opportunity Zone Act of 2005 (Pub. L. 109–135, 119 Stat. 25 (2005)), section 514 of the Tax Increase Prevention and Reconciliation Act of 2005 (Pub. L. 109–222, 120 Stat. 345 (2005)), section 401 of the Tax Relief and Health Care Act of 2006 (Pub. L. 109–432, 120 Stat. 2922 (2006)), section 401(a), Division B of the Energy Improvement and Extension Act of 2008 (Pub. L. 110–343, 122 Stat. 3765 (2008)) (Energy Extension Act of 2008), sections 312(a) and 502(c), Division C of the Tax Extenders and Alternative Minimum Tax Relief Act of 2008 (Pub. L. 110–343, 122 Stat. 3765 (2008)) (Tax Extenders Act of 2008), section 746(a) of the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010 (Pub. L. 111–312, 124 Stat. 3296 (2010)), section 318 of the American Taxpayer Relief Act of 2012 (Pub. L. 112–240, 126 Stat. 2313 (2013)), and sections 130 and 219(b) of the Tax Increase Prevention Act of 2014 (Pub. L. 113–295, 128 Stat. 4010 (2014)).

General Overview

Section 199(a)(1) allows a deduction equal to nine percent (three percent in the case of taxable years beginning in 2005 or 2006, and six percent in the case of taxable years beginning in 2007, 2008, or 2009) of the lesser of: (A) The qualified production activities income (QPAI) of the taxpayer for the taxable year, or (B) taxable income (determined without regard to section 199) for the taxable year (or, in the case of an individual, adjusted gross income).

Section 199(b)(1) provides that the amount of the deduction allowable under section 199(a) for any taxable year shall not exceed 50 percent of the W–2 wages of the taxpayer for the taxable year. Section 199(b)(2)(A) generally defines *W–2 wages,* with respect to any person for any taxable year of such person, as the sum of amounts described in section 6051(a)(3) and (8) paid by such person with respect to employment of employees by such person during the calendar year ending during such taxable year. Section 199(b)(3), after its amendment by section 219(b) of the Tax Increase Prevention Act of 2014, provides that the Secretary shall provide for the application of section 199(b) in cases of a short taxable year or where the taxpayer acquires, or disposes of, the major portion of a trade or business, or the major portion of a separate unit of a trade or business during the taxable year. Section 199(b)(2)(B) limits the W–2 wages to those properly allocable to DPGR for taxable years beginning after May 17, 2006.

Section 199(c)(1) defines QPAI for any taxable year as an amount equal to the excess (if any) of: (A) The taxpayer's DPGR for such taxable year, over (B) the sum of: (i) The cost of goods sold (CGS) that are allocable to such receipts; and (ii) other expenses, losses, or deductions (other than the deduction under section 199) that are properly allocable to such receipts.

Section 199(c)(4)(A)(i) provides that the term DPGR means the taxpayer's gross receipts that are derived from any lease, rental, license, sale, exchange, or other disposition of: (I) Qualifying

production property (QPP) that was manufactured, produced, grown, or extracted (MPGE) by the taxpayer in whole or in significant part within the United States; (II) any qualified film produced by the taxpayer; or (III) electricity, natural gas, or potable water (utilities) produced by the taxpayer in the United States.

Section 199(d)(10), as renumbered by section 401(a), Division B of the Energy Extension Act of 2008, authorizes the Secretary to prescribe such regulations as are necessary to carry out the purposes of section 199, including regulations that prevent more than one taxpayer from being allowed a deduction under section 199 with respect to any activity described in section 199(c)(4)(A)(i).

Explanation of Provisions

1. Allocation of W–2 Wages in a Short Taxable Year and in an Acquisition or Disposition of a Trade or Business (or Major Portion)

Temporary regulations in the Rules and Regulations section of this issue of the **Federal Register** contain amendments to the Income Tax Regulations that provide rules clarifying how taxpayers calculate W–2 wages for purposes of the W–2 wage limitation under section 199(b)(1) in the case of a short taxable year or where a taxpayer acquires, or disposes of, the major portion of a trade or business, or the major portion of a separate unit of a trade or business during the taxable year under section 199(b)(3). The text of those regulations serves as the text of these proposed regulations. The preamble to the temporary regulations explains the temporary regulations.

2. Oil Related Qualified Production Activities Income

Section 401(a), Division B of the Energy Extension Act of 2008 added new section 199(d)(9), which applies to taxable years beginning after December 31, 2008. Section 199(d)(9) reduces the otherwise allowable section 199 deduction when a taxpayer has oil related qualified production activities income (oil related QPAI), and defines oil related QPAI. Section 199(d)(9)(A) provides that if a taxpayer has oil related QPAI for any taxable year beginning after 2009, the amount otherwise allowable as a deduction under section 199(a) must be reduced by three percent of the least of: (i) The oil related QPAI of the taxpayer for the taxable year, (ii) the QPAI of the taxpayer for the taxable year, or (iii) taxable income (determined without regard to section 199).

Section 1.199–1(f) of the proposed regulations provides guidance on oil related QPAI. In defining oil related QPAI, the Treasury Department and the IRS considered the relationship between QPAI and oil related QPAI. Section 199(c)(1) defines QPAI as the amount equal to the excess (if any) of the taxpayer's DPGR for the taxable year over the sum of CGS allocable to such receipts and other costs, expenses, losses, and deductions allocable to such receipts. So, for example, if gross receipts are not included within DPGR, those gross receipts are not included when calculating QPAI. Section 199(d)(9)(B) defines oil related QPAI as QPAI attributable to the production, refining, processing, transportation, or distribution of oil, gas, or any primary product thereof. In general, gross receipts from the transportation and distribution of QPP are not includable in DPGR because those activities are not considered part of the MPGE of QPP. See § 1.199–3(e)(1), which defines MPGE. Section 199(c)(4)(B)(ii) specifically excludes gross receipts attributable to the transmission or distribution of natural gas from the definition of DPGR.

Based on these considerations, the proposed regulations define *oil related QPAI* as an amount equal to the excess (if any) of the taxpayer's DPGR from the production, refining, or processing of oil, gas, or any primary product thereof (oil related DPGR) over the sum of the CGS that is allocable to such receipts and other expenses, losses, or deductions that are properly allocable to such receipts. The proposed regulations specifically provide that oil related DPGR does not include gross receipts derived from the transportation or distribution of oil, gas, or any primary product thereof, except if the de minimis rule under § 1.199–1(d)(3)(i) or an exception for embedded services applies under § 1.199–3(i)(4)(i)(B). The proposed regulations further provide that, to the extent a taxpayer treats gross receipts derived from the transportation or distribution of oil, gas, or any primary product thereof as DPGR under § 1.199–1(d)(3)(i) or § 1.199–3(i)(4)(i)(B), the taxpayer must include those gross receipts in oil related DPGR.

The proposed regulations define *oil* as including oil recovered from both conventional and non-conventional recovery methods, including crude oil, shale oil, and oil recovered from tar/oil sands. Section 199(d)(9)(C) defines *primary product* as having the same meaning as when used in section 927(a)(2)(C) (relating to property excluded from the term *export property* under the former foreign sales corporations rules), as in effect before its repeal. The proposed regulations incorporate the rules in § 1.927(a)–1T(g)(2)(i) regarding the definition of a primary product with modifications that are consistent with the definition of oil for purposes of section 199(d)(9).

Section 1.199–1(f)(2) of the proposed regulations provides guidance on how a taxpayer should allocate and apportion costs under the section 861 method, the simplified deduction method, and the small business simplified overall method when determining oil related QPAI. The proposed regulations require taxpayers to use the same cost allocation method to allocate and apportion costs to oil related DPGR as the taxpayer uses to allocate and apportion costs to DPGR.

3. Qualified Films

a. Statutory Amendments

Section 502(c), Division C of the Tax Extenders Act of 2008 amended the rules relating to qualified films. Section 502(c)(1) added section 199(b)(2)(D) to broaden the definition of the term *W–2 wages* as applied to a qualified film to include compensation for services performed in the United States by actors, production personnel, directors, and producers.

Section 502(c)(2), Division C of the Tax Extenders Act of 2008 amended the definition of qualified film in section 199(c)(6) to mean any property described in section 168(f)(3) if not less than 50 percent of the total compensation relating to production of the property is compensation for services performed in the United States by actors, production personnel, directors, and producers. The term does not include property with respect to which records are required to be maintained under 18 U.S.C. 2257 (generally, films, videotapes, or other matter that depict actual sexually explicit conduct and are produced in whole or in part with materials that have been mailed or shipped in interstate or foreign commerce, or are shipped or transported or are intended for shipment or transportation in interstate or foreign commerce). Section 502(c)(2), Division C of the Tax Extenders Act of 2008 also amended the definition of a qualified film under section 199(c)(6) to include any copyrights, trademarks, or other intangibles with respect to such film. The method and means of distributing a qualified film does not affect the availability of the deduction.

Section 502(c)(3), Division C of the Tax Extenders Act of 2008 added an attribution rule for a qualified film for taxpayers who are partnerships or S

corporations, or partners or shareholders of such entities under section 199(d)(1)(A)(iv). Section 199(d)(1)(A)(iv) provides that in the case of each partner of a partnership, or shareholder of an S corporation, who owns (directly or indirectly) at least 20 percent of the capital interests in such partnership or the stock of such S corporation, such partner or shareholder is treated as having engaged directly in any film produced by such partnership or S corporation, and that such partnership or S Corporation is treated as having engaged directly in any film produced by such partner or shareholder.

The amendments made by section 502(c), Division C of the Tax Extenders Act of 2008 apply to taxable years beginning after December 31, 2007.

b. W–2 Wages

Section 1.199–2(e)(1) of the proposed regulations modifies the definition of W–2 wages to include compensation for services (as defined in § 1.199–3(k)(4)) performed in the United States by actors, production personnel, directors, and producers (as defined in § 1.199–3(k)(1)).

c. Definition of Qualified Films

To address the amendments to the definition of qualified film in section 199(c)(6) for taxable years beginning after 2007, the proposed regulations amend the definition of qualified film in § 1.199–3(k)(1) to include copyrights, trademarks, or other intangibles with respect to such film. The proposed regulations define other intangibles with a non-exclusive list of intangibles that fall within the definition.

Section 1.199–3(k)(10) provides a special rule for disposition of promotional films to address concerns of the Treasury Department and the IRS that the inclusion of intangibles in the definition of qualified film could be interpreted too broadly. This rule clarifies that, when a taxpayer produces a qualified film that is promoting a product or service, the gross receipts a taxpayer later derives from the disposition of the product or service promoted in the qualified film are derived from the disposition of the product or service and not from a disposition of the qualified film (including any intangible with respect to such qualified film). The rule is intended to prevent taxpayers from claiming that gross receipts are derived from the disposition of a qualified film (rather than the product or service itself) when a taxpayer sells a product or service with a logo, trademark, or other intangible that appears in a promotional film produced by the taxpayer. The Treasury Department and the IRS recognize that a taxpayer can, in certain cases, derive gross receipts from a disposition of a promotional film or the intangibles in a promotional film. The proposed regulations add *Example 9* in § 1.199–3(k)(11) relating to a license to reproduce a character used in a promotional film to illustrate a situation where gross receipts can qualify as DPGR because the gross receipts are distinct (separate and apart) from the disposition of the product or service. The Treasury Department and the IRS request comments on how to determine when gross receipts are distinct.

The proposed regulations add four examples in redesignated § 1.199–3(k)(11), formerly § 1.199–3(k)(10), to illustrate application of the amended definition of qualified film that includes copyrights, trademarks, or other intangibles.

The proposed regulations remove the last sentence of § 1.199–3(k)(3)(ii) (which states that gross receipts derived from a license of the right to use or exploit film characters are not gross receipts derived from a qualified film) because gross receipts derived from a license of the right to use or exploit film characters are now considered gross receipts derived from a qualified film.

Section 1.199–3(k)(2)(ii), which allows a taxpayer to treat certain tangible personal property as a qualified film (for example, a DVD), is amended to exclude film intangibles because tangible personal property affixed with a film intangible (such as a trademark) should not be treated as a qualified film. For example, the total revenue from the sale of an imported t-shirt affixed with a film intangible should not be treated as gross receipts derived from the sale of a qualified film. The portion of the gross receipts attributable to the qualified film intangible separate from receipts attributable to the t-shirt may qualify as DPGR, however. The proposed regulations also add *Example 10* and *Example 11* in redesignated § 1.199–3(k)(11) to address situations in which tangible personal property is offered for sale in combination with a qualified film affixed to a DVD.

Section 1.199–3(k)(3)(i) and (k)(3)(ii) of the proposed regulations address the amendment to section 199(c)(6) (effective for taxable years beginning after 2007) that provides the methods and means of distributing a qualified film will not affect the availability of the deduction under section 199. The exception that describes the receipts from showing a qualified film in a movie theater or by broadcast on a television station as not derived from a qualified film is removed from § 1.199–3(k)(3)(ii) because, if a taxpayer produces a qualified film, then the receipts the taxpayer derives from these showings qualify as DPGR in taxable years beginning after 2007. In addition, *Example 4* in § 1.199–3(i)(5)(iii) and *Example 3* in § 1.199–3(k)(11) (formerly § 1.199–3(k)(10)) have been revised to illustrate that, for taxable years beginning after 2007, product placement and advertising income derived from the distribution of a qualified film qualifies as DPGR if the qualified film containing the product placements and advertising is broadcast over the air or watched over the Internet.

The proposed regulations also add a sentence to § 1.199–3(k)(6) to clarify that production activities do not include activities related to the transmission or distribution of films. The Treasury Department and the IRS are aware that some taxpayers have taken the inappropriate position that these activities are part of the production of a film. The Treasury Department and the IRS consider film production as distinct from the transmission and distribution of films. This clarification is also consistent with the amendment to the definition of qualified film, which provides that the methods and means of distribution do not affect the availability of the deduction under section 199.

d. Partnerships and S Corporations

Section 1.199–3(i)(9) of the proposed regulations describes the application of section 199(d)(1)(A)(iv) to partners and partnerships and shareholders and S corporations for taxable years beginning after 2007. The Treasury Department and the IRS have determined that for a partnership to apply the provisions of section 199(d)(1)(A)(iv) to treat itself as having engaged directly in a film produced by a partner, the partnership must treat itself as a partnership for all purposes of the Code. Further, a partner of a partnership can apply the provisions of section 199(d)(1)(A)(iv) to treat itself as having engaged directly in a film produced by the partnership only if the partnership treats itself as a partnership for all purposes of the Code. Section 1.199–3(i)(9)(i) describes generally that a partner of a partnership or shareholder of an S corporation who owns (directly or indirectly) at least 20 percent of the capital interests in such partnership or the stock of such S corporation is treated as having engaged directly in any film produced by such partnership or S corporation. Further, such partnership or S corporation is treated as having engaged directly in any film produced by such partner or shareholder.

Section 1.199–3(i)(9)(ii) of the proposed regulations generally prohibits attribution between partners of a partnership or shareholders of an S corporation, partnerships with a partner in common, or S corporations with a shareholder in common. Thus, when a partnership or S corporation is treated as having engaged directly in any film produced by a partner or shareholder, any other partners or shareholders who did not participate directly in the production of the film are treated as not having engaged directly in the production of the film at the partner or shareholder level. Similarly, when a partner or shareholder is treated as having engaged directly in any film produced by a partnership or S corporation, any other partnerships or S corporations in which that partner or shareholder owns an interest (excluding the partnership or S corporation that produced the film) are treated as not having engaged directly in the production of the film at the partnership or S corporation level.

Section 1.199–3(i)(9)(iii) of the proposed regulations describes the attribution period for a partner or partnership or shareholder or S corporation under section 199(d)(1)(A)(iv). A partner or shareholder is treated as having engaged directly in any qualified film produced by the partnership or S corporation, and a partnership or S corporation is treated as having engaged directly in any qualified film produced by the partner or shareholder, regardless of when the qualified film was produced, during the period in which the partner or shareholder owns (directly or indirectly) at least 20 percent of the capital interests in the partnership or the stock of the S corporation. During any period that a partner or shareholder owns less than 20 percent of the capital interests in such partnership or the stock of such S corporation that partner or shareholder is not treated as having engaged directly in the qualified film produced by the partnership or S corporation for purposes of § 1.199–3(i)(9)(iii), and that partnership or S corporation is not treated as having engaged directly in any qualified film produced by the partner or shareholder.

Section 1.199–3(i)(9)(iv) of the proposed regulations provides examples that illustrate section 199(d)(1)(A)(iv).

e. Qualified Film Safe Harbor

Existing § 1.199–3(k)(7)(i) provides a safe harbor that treats a film as a qualified film produced by the taxpayer if not less than 50 percent of the total compensation for services paid by the taxpayer is compensation for services performed in the United States and the taxpayer satisfies the safe harbor in § 1.199–3(g)(3) for treating a taxpayer as MPGE QPP in whole or significant part in the United States. The Treasury Department and the IRS are aware that it may be unclear how the safe harbor in § 1.199–3(k)(7)(i) applies to costs of live or delayed television programs that may be expensed (specifically, whether such expensed costs are part of the CGS or unadjusted depreciable basis of the qualified film for purposes of § 1.199–3(g)(3)). Further, it may be unclear whether license fees paid for third-party produced programs are included in direct labor and overhead when applying the safe harbor in § 1.199–3(g)(3). The proposed regulations clarify how a taxpayer producing live or delayed television programs should apply the safe harbor in § 1.199–3(k)(7)(i); in particular, how a taxpayer should calculate its unadjusted depreciable basis under § 1.199–3(g)(3)(ii). Specifically, proposed § 1.199–3(k)(7)(i) requires a taxpayer to include all costs paid or incurred in the production of a live or delayed television program in the taxpayer's unadjusted depreciable basis of such program under § 1.199–3(g)(3)(ii), including the licensing fees paid to a third party under § 1.199–3(g)(3)(ii). The proposed regulations further clarify that license fees for third-party produced programs are not included in the direct labor and overhead to produce the film for purposes of applying § 1.199–3(g)(3).

4. Treatment of Activities in Puerto Rico

Section 199(d)(8)(A) provides that in the case of any taxpayer with gross receipts for any taxable year from sources within the Commonwealth of Puerto Rico, if all of such receipts are taxable under section 1 or 11 for such taxable year, then for purposes of determining the DPGR of such taxpayer for such taxable year under section 199(c)(4), the term *United States* includes the Commonwealth of Puerto Rico. Section 199(d)(8)(B) provides that in the case of a taxpayer described in section 199(d)(8)(A), for purposes of applying the wage limitation under section 199(b) for any taxable year, the determination of W–2 wages of such taxpayer is made without regard to any exclusion under section 3401(a)(8) for remuneration paid for services performed in Puerto Rico. Section 130 of the Tax Increase Prevention Act of 2014 amended section 199(d)(8)(C) for taxable years beginning after December 31, 2013. As amended, section 199(d)(8)(C) provides that section 199(d)(8) applies only with respect to the first nine taxable years of the taxpayer beginning after December 31, 2005, and before January 1, 2015.

Section 1.199–2(f) of the proposed regulations modifies the W–2 wage limitation under section 199(b) to the extent provided by section 199(d)(8). Section 1.199–3(h)(2) of the proposed regulations modifies the term *United States* to include the Commonwealth of Puerto Rico to the extent provided by section 199(d)(8).

5. Determining DPGR on Item-by-Item Basis

Section 1.199–3(d)(1) provides that a taxpayer determines, using any reasonable method that is satisfactory to the Secretary based on all of the facts and circumstances, whether gross receipts qualify as DPGR on an item-by-item basis. Section 1.199–3(d)(1)(i) provides that item means the property offered by the taxpayer in the normal course of the taxpayer's business for lease, rental, license, sale, exchange, or other disposition (for purposes of § 1.199–3(d), collectively referred to as disposition) to customers, if the gross receipts from the disposition of such property qualify as DPGR. Section 1.199–3(d)(2)(iii) provides that, in the case of construction activities and services or engineering and architectural services, a taxpayer may use any reasonable method that is satisfactory to the Secretary based on all of the facts and circumstances to determine what construction activities and services or engineering or architectural services constitute an item.

The Treasury Department and the IRS are aware that the item rule in § 1.199–3(d)(2)(iii) has been interpreted to mean that the gross receipts derived from the sale of a multiple-building project may be treated as DPGR when only one building in the project is substantially renovated. The Treasury Department and the IRS have concluded that treating gross receipts from the sale of a multiple-building project as DPGR, and the multiple-building project as one item, is not a reasonable method satisfactory to the Secretary for purposes of § 1.199–3(d)(2)(iii) if a taxpayer did not substantially renovate each building in the multiple-building project. Section 1.199–3(d)(4) of the proposed regulations includes an example (*Example 14*) illustrating the appropriate application of § 1.199–3(d)(2)(iii) to a multiple building project.

In addition, the Treasury Department and the IRS are aware that taxpayers may be unsure how to apply the item rule in § 1.199–3(d)(2)(i) when the property offered for disposition to customers includes embedded services

as described in § 1.199–3(i)(4)(i). The proposed regulations add *Example 6* to § 1.199–3(d)(4) to clarify that the item rule applies after excluding the gross receipts attributable to services.

6. MPGE

Section 1.199–3(e)(1) provides that the term *MPGE* includes manufacturing, producing, growing, extracting, installing, developing, improving, and creating QPP; making QPP out of scrap, salvage, or junk material as well as from new or raw material by processing, manipulating, refining, or changing the form of an article, or by combining or assembling two or more articles; cultivating soil, raising livestock, fishing, and mining minerals. The Treasury Department and the IRS are aware that *Example 5* in § 1.199–3(e)(5) has been interpreted to mean that testing activities qualify as an MPGE activity even if the taxpayer engages in no other MPGE activity. The Treasury Department and the IRS disagree that testing activities, alone, qualify as an MPGE activity. The proposed regulations add a sentence to *Example 5* in § 1.199–3(e)(5) to further illustrate that certain activities will not be treated as MPGE activities if they are not performed as part of the MPGE of QPP. Taxpayers are not required to allocate gross receipts to certain activities that are not MPGE activities when those activities are performed in connection with the MPGE of QPP. However, if the taxpayer in *Example 5* in § 1.199–3(e)(5) did not MPGE QPP, then the activities described in the example, including testing, are not MPGE activities.

Section 1.199–3(e)(2) provides that if a taxpayer packages, repackages, labels, or performs minor assembly of QPP and the taxpayer engages in no other MPGE activities with respect to that QPP, the taxpayer's packaging, repackaging, labeling, or minor assembly does not qualify as MPGE with respect to that QPP. This rule has been the subject of recent litigation. See *United States* v. *Dean*, 945 F. Supp. 2d 1110 (C.D. Cal. 2013) (concluding that the taxpayer's activity of preparing gift baskets was a manufacturing activity and not solely packaging or repackaging for purposes of section 199). The Treasury Department and the IRS disagree with the interpretation of § 1.199–3(e)(2) adopted by the court in *United States* v. *Dean*, and the proposed regulations add an example (*Example 9*) that illustrates the appropriate application of this rule in a situation in which the taxpayer is engaged in no other MPGE activities with respect to the QPP other than those described in § 1.199–3(e)(2).

7. Definition of ''by the taxpayer''

Section 1.199–3(f)(1) provides that if one taxpayer performs a qualifying activity under § 1.199–3(e)(1), § 1.199–3(k)(1), or § 1.199–3(l)(1) pursuant to a contract with another party, then only the taxpayer that has the benefits and burdens of ownership of the QPP, qualified film, or utilities under Federal income tax principles during the period in which the qualifying activity occurs is treated as engaging in the qualifying activity.

Taxpayers and the IRS have had difficulty determining which party to a contract manufacturing arrangement has the benefits and burdens of ownership of the property while the qualifying activity occurs. Cases analyzing the benefits and burdens of ownership have considered the following factors relevant: (1) Whether legal title passes; (2) how the parties treat the transaction; (3) whether an equity interest was acquired; (4) whether the contract creates a present obligation on the seller to execute and deliver a deed and a present obligation on the purchaser to make payments; (5) whether the right of possession is vested in the purchaser and which party has control of the property or process; (6) which party pays the property taxes; (7) which party bears the risk of loss or damage to the property; (8) which party receives the profits from the operation and sale of the property; and (9) whether a taxpayer actively and extensively participated in the management and operations of the activity. See *ADVO, Inc. & Subsidiaries* v. *Commissioner*, 141 T.C. 298, 324–25 (2013); see also *Grodt & McKay Realty, Inc.* v. *Commissioner*, 77 T.C. 1221 (1981). The *ADVO* court noted that the factors it used in its analysis are not exclusive or controlling, but that they were in the particular case sufficient to determine which party had the benefits and burdens of ownership. *ADVO, Inc.*, 141 T.C. at 325 n. 21. Determining which party has the benefits and burdens of ownership under Federal income tax principles for purposes of section 199 requires an analysis and weighing of many factors, which in some contexts could result in more than one taxpayer claiming the benefits of section 199 with respect to a particular activity. Resolving the benefits and burdens of ownership issue often requires significant IRS and taxpayer resources.

Section 199(d)(10) directs the Treasury Department to provide regulations that prevent more than one taxpayer from being allowed a deduction under section 199 with respect to any qualifying activity (as described in section 199(c)(4)(A)(i)). The Treasury Department and the IRS have interpreted the statute to mean that only one taxpayer may claim the section 199 deduction with respect to the same activity performed with respect to the same property. See § 1.199–3(f)(1). *Example 1* and *Example 2* in § 1.199–3(f)(4) currently illustrate this one-taxpayer rule using factors that are relevant to the determination of who has the benefits and burdens of ownership.

The Large Business and International (LB&I) Division issued an Industry Director Directive on February 1, 2012 (LB&I Control No. LB&I–4–0112–01) (Directive) addressing the benefits and burdens factors. The Directive provides a three-step analysis of facts and circumstances relating to contract terms, production activities, and economic risks to determine whether a taxpayer has the benefits and burdens of ownership for purposes of § 1.199–3(f)(1). LB&I issued a superseding second directive on July 24, 2013 (LB&I Control No. LB&I–04–0713–006), and a third directive updating the second directive on October 29, 2013 (LB&I Control No. LB&I–04–1013–008). The third directive allows a taxpayer to provide a statement explaining the taxpayer's determination that it had the benefits and burdens of ownership, along with certification statements signed under penalties of perjury by the taxpayer and the counterparty verifying that only the taxpayer is claiming the section 199 deduction.

To provide administrable rules that are consistent with section 199, reduce the burden on taxpayers and the IRS in evaluating factors related to the benefits and burdens of ownership, and prevent more than one taxpayer from being allowed a deduction under section 199 with respect to any qualifying activity, the proposed regulations remove the rule in § 1.199–3(f)(1) that treats a taxpayer in a contract manufacturing arrangement as engaging in the qualifying activity only if the taxpayer has the benefits and burdens of ownership during the period in which the qualifying activity occurs. In place of the benefits and burdens of ownership rule, these proposed regulations provide that if a qualifying activity is performed under a contract, then the party that performs the activity is the taxpayer for purposes of section 199(c)(4)(A)(i). This rule, which applies solely for purposes of section 199, reflects the conclusion that the party actually producing the property should be treated as engaging in the qualifying activity for purposes of section 199, and is therefore consistent with the statute's goal of incentivizing domestic

manufacturers and producers. The proposed rule would also provide a readily administrable approach that would prevent more than one taxpayer from being allowed a deduction under section 199 with respect to any qualifying activity.

Example 1 has been revised, and current *Example 2* has been removed, to reflect the new rule. In addition, the benefits and burdens language has been removed from: (1) The definition of MPGE in § 1.199–3(e)(1) and (3), including *Example 1, Example 4,* and *Example 5* in § 1.199–3(e)(5); (2) the definition of in whole or in significant part in § 1.199–3(g)(1); (3) *Example 5* in the qualified film rules in existing § 1.199–3(k)(7); and (4) the production pursuant to a contract in the qualified film rules in § 1.199–3(k)(8).

The Treasury Department and the IRS request comments on whether there are narrow circumstances that could justify an exception to the proposed rule. In particular, the Treasury Department and the IRS request comments on whether there should be a limited exception to the proposed rule for certain fully cost-plus or cost-reimbursable contracts. Under such an exception, the party that is not performing the qualifying activity would be treated as the taxpayer engaged in the qualifying activity if the party performing the qualifying activity is (i) reimbursed for, or provided with, all materials, labor, and overhead costs related to fulfilling the contract, and (ii) provided with an additional payment to allow for a profit. The Treasury Department and the IRS are uncertain regarding the extent to which such fully cost-plus or cost-reimbursable contracts are in fact used in practice. Comments suggesting circumstances that could justify an exception to the proposed rule should address the rationale for the proposed exception, the ability of the IRS to administer the exception, and how the suggested exception will prevent two taxpayers from claiming the deduction for the qualifying activity.

8. Hedging Transactions

The proposed regulations make several revisions to the hedging rules in § 1.199–3(i)(3). Section 1.199–3(i) of the proposed regulations defines a hedging transaction to include transactions in which the risk being hedged relates to property described in section 1221(a)(1) giving rise to DPGR, whereas the existing regulations require the risk being hedged relate to QPP described in section 1221(a)(1). A taxpayer commented in a letter to the Treasury Department and the IRS that there is no reason to limit the hedging rules to QPP giving rise to DPGR, and the proposed regulations accept the comment.

The other changes to the hedging rules are administrative. Section 1.199–3(i)(3)(ii) of the existing regulations on currency fluctuations was eliminated because the regulations under sections 988(d) and 1221 adequately cover the treatment of currency hedges. Similarly, the rules in § 1.199–3(i)(3)(iii) that address the effect of identification and non-identification were duplicative of the rules in the section 1221 regulations. Accordingly, § 1.199–3(i)(3)(ii) has been revised to cross-reference the appropriate rules in § 1.1221–2(g), and to clarify that the consequence of an abusive identification or non-identification is that deduction or loss, but not income or gain, is taken into account in calculating DPGR.

9. Construction Activities

Section 199(c)(4)(A)(ii) includes in DPGR, in the case of a taxpayer engaged in the active conduct of a construction trade or business, gross receipts derived from construction of real property performed in the United States by the taxpayer in the ordinary course of such trade or business. Under § 1.199–3(m)(2)(i), activities constituting construction include activities performed by a general contractor or activities typically performed by a general contractor, for example, activities relating to management and oversight of the construction process such as approvals, periodic inspection of progress of the construction project, and required job modifications. The Treasury Department and the IRS are aware that some taxpayers have interpreted this language to mean that a taxpayer who only approves or authorizes payments is engaged in activities typically performed by a general contractor under § 1.199–3(m)(2)(i). The Treasury Department and the IRS disagree that a taxpayer who only approves or authorizes payments is engaged in construction for purposes of § 1.199–3(m)(2)(i). Accordingly, § 1.199–3(m)(2)(i) of the proposed regulations clarifies that a taxpayer must engage in construction activities that include more than the approval or authorization of payments or invoices for that taxpayer's activities to be considered as activities typically performed by a general contractor.

Section 1.199–3(m)(2)(i) provides that activities constituting construction are activities performed in connection with a project to erect or substantially renovate real property. Section 1.199–3(m)(5) currently defines substantial renovation to mean the renovation of a major component or substantial structural part of real property that materially increases the value of the property, substantially prolongs the useful life of the property, or adapts the property to a new or different use. This standard reflects regulations under § 1.263(a)–3 related to amounts paid to improve tangible property that existed at the time of publication of the final § 1.199–3(m)(5) regulations (TD 9263 [71 FR 31268] June 19, 2006) but which have since been revised. See (TD 9636 [78 FR 57686] September 19, 2013).

The proposed regulations under § 1.199–3(m)(5) revise the definition of substantial renovation to conform to the final regulations under § 1.263(a)-3, which provide rules requiring capitalization of amounts paid for improvements to a unit of property owned by a taxpayer. Improvements under § 1.263(a)–3 are amounts paid for a betterment to a unit of property, amounts paid to restore a unit of property, and amounts paid to adapt a unit of property to a new or different use. See § 1.263(a)–3(j), (k), and (l). Under the proposed regulations, a substantial renovation of real property is a renovation the costs of which are required to be capitalized as an improvement under § 1.263(a)–3, other than an amount described in § 1.263(a)–3(k)(1)(i) through (iii) (relating to amounts for which a loss deduction or basis adjustment requires capitalization as an improvement). The improvement rules under § 1.263(a)–3 provide specific rules of application for buildings (see § 1.263(a)–3(j)(2)(ii), (k)(2), and (l)(2)), which apply for purposes of § 1.199–3(m)(5).

10. Allocating Cost of Goods Sold

Section 1.199–4(b)(1) describes how a taxpayer determines its CGS allocable to DPGR. The Treasury Department and the IRS are aware that in the case of transactions accounted for under a long-term contract method of accounting (either the percentage-of-completion method (PCM) or the completed-contract method (CCM)), a taxpayer incurs allocable contract costs. The Treasury Department and the IRS recognize that allocable contract costs under PCM or CCM are analogous to CGS and should be treated in the same manner. Section 1.199–4(b)(1) of the proposed regulations provides that in the case of a long-term contract accounted for under PCM or CCM, CGS for purposes of § 1.199–4(b)(1) includes allocable contract costs described in § 1.460–5(b) or § 1.460–5(d), as applicable.

Existing § 1.199–4(b)(2)(i) provides that a taxpayer must use a reasonable method that is satisfactory to the

Secretary based on all of the facts and circumstances to allocate CGS between DPGR and non-DPGR. This allocation must be determined based on the rules provided in § 1.199–4(b)(2)(i) and (ii). Taxpayers have asserted that under § 1.199–4(b)(2)(ii) the portion of current year CGS associated with activities in earlier tax years (including pre-section 199 tax years) may be allocated to non-DPGR even if the related gross receipts are treated by the taxpayer as DPGR. Section 1.199–4(b)(2)(iii)(A) of the proposed regulations clarifies that the CGS must be allocated between DPGR and non-DPGR, regardless of whether any component of the costs included in CGS can be associated with activities undertaken in an earlier taxable year. Section 1.199–4(b)(2)(iii)(B) of the proposed regulations provides an example illustrating this rule.

11. Agricultural and Horticultural Cooperatives

Section 199(d)(3)(A) provides that any person who receives a qualified payment from a specified agricultural or horticultural cooperative must be allowed for the taxable year in which such payment is received a deduction under section 199(a) equal to the portion of the deduction allowed under section 199(a) to such cooperative that is (i) allowed with respect to the portion of the QPAI to which such payment is attributable, and (ii) identified by such cooperative in a written notice mailed to such person during the payment period described in section 1382(d).

Under § 1.199–6(c), the cooperative's QPAI is computed without taking into account any deduction allowable under section 1382(b) or section 1382(c) (relating to patronage dividends, per-unit retain allocations, and nonpatronage distributions).

Section 1.199–6(e) provides that the term *qualified payment* means any amount of a patronage dividend or per-unit retain allocation, as described in section 1385(a)(1) or section 1385(a)(3), received by a patron from a cooperative that is attributable to the portion of the cooperative's QPAI for which the cooperative is allowed a section 199 deduction. For this purpose, patronage dividends and per-unit retain allocations include any advances on patronage and per-unit retains paid in money during the taxable year.

Section 1388(f) defines the term *per-unit retain allocation* to mean any allocation by an organization to which part I of subchapter T applies to a patron with respect to products marketed for him, the amount of which is fixed without reference to net earnings of the organization pursuant to an agreement between the organization and the patron. Per-unit retain allocations may be made in money, property, or certificates.

The Treasury Department and the IRS are aware that *Example 1* in § 1.199–6(m) has been interpreted as describing that the cooperative's payment for its members' corn is a per-unit retain allocation paid in money as defined in sections 1382(b)(3) and 1388(f). *Example 1* in § 1.199–6(m) does not identify the cooperative's payment for its members' corn as a per-unit retain allocation and is not intended to illustrate how QPAI is computed when a cooperative's payments to its patrons are per-unit retain allocations. The proposed regulations provide an example (*Example 4*) in § 1.199–6(m) illustrating how QPAI is computed when the cooperative's payments to members for corn qualify as per-unit retain allocations paid in money under section 1388(f). The new example has the same facts as *Example 1* in § 1.199–6(m), except that the cooperative's payments for its members' corn qualify as per-unit retain allocations paid in money under section 1388(f) and the cooperative reports per-unit retain allocations paid in money on Form 1099–PATR, ''Taxable Distributions Received From Cooperatives.''

Request for Comments

Existing § 1.199–3(e)(2) provides that if a taxpayer packages, repackages, labels, or performs minor assembly of QPP and the taxpayer engages in no other MPGE activity with respect to that QPP, the taxpayer's packaging, repackaging, labeling, or minor assembly does not qualify as MPGE with respect to that QPP.

The term *minor assembly* for purposes of section 199 was first introduced in Notice 2005–14 (2005–1 CB 498 (February 14, 2005)) (see § 601.601(d)(2)(ii)(*b*)) (Notice 2005–14), and was used (by exclusion) in determining whether a taxpayer met the in-whole-or-in-significant-part requirement. Specifically, section 3.04(5)(d) of Notice 2005–14 states that in connection with the MPGE of QPP, packaging, repackaging, and minor assembly operations should not be considered in applying the general ''substantial in nature'' test, and the costs should not be considered in applying the safe harbor. The section further states that this rule is similar to the rule in § 1.954–3(a)(4)(iii). The rule in § 1.954–3(a)(4)(iii) applies when deciding whether a taxpayer selling property will be treated as selling a manufactured product rather than components of that sold property.

Section 1.199–3(g) of the current regulations, which superseded Notice 2005–14, does not provide a specific definition of minor assembly, but it does allow taxpayers to consider minor assembly activities to determine whether the taxpayer has met the in-whole-or-in-significant-part requirement (either by showing their activities were substantial in nature under § 1.199–3(g)(2) or by meeting the safe harbor in § 1.199–3(g)(3)). However, the current regulations also contain § 1.199–3(e)(2), which excludes certain activities from the definition of MPGE. Section 1.199–3(e)(2) provides that if a taxpayer packages, repackages, labels, or performs minor assembly of QPP and the taxpayer engages in no other MPGE activity with respect to that QPP, the taxpayer's packaging, repackaging, labeling, or minor assembly does not qualify as MPGE with respect to that QPP. Therefore, a taxpayer with only minor assembly activities would not meet the definition of MPGE and a determination of whether a taxpayer met the in-whole-or-in-significant-part requirement is not made.

In considering whether to provide a specific definition of minor assembly, the Treasury Department and the IRS have found it difficult to identify an objective test that would be widely applicable.

The definition of minor assembly could focus on whether a taxpayer's activity is only a single process that does not transform an article into a materially different QPP. Such process may include, but would not be limited to, blending or mixing two materials together, painting an article, cutting, chopping, crushing (non-agricultural products), or other similar activities. An example of blending or mixing two materials is using a paint mixing machine to combine paint with a pigment to match a customer's color selection when a taxpayer did not MPGE the paint or the pigment. An example of cutting is a taxpayer using an industrial key cutting machine to custom cut keys for customers using blank keys that taxpayer purchased from unrelated third parties. Examples of other similar activities include adding an additive to extend the shelf life of a product and time ripening produce that was purchased from unrelated third parties.

Another possible definition could be based on whether an end user could reasonably engage in the same assembly activity of the taxpayer. For example, assume QPP made up of component parts purchased by taxpayer is sold by a taxpayer to end users in either assembled or disassembled form. To the

extent an end user can reasonably assemble the QPP sold in disassembled form, the taxpayer's assembly activity would be considered minor assembly.

The Treasury Department and the IRS request comments on how the term *minor assembly* in § 1.199–3(e)(2) should be defined and encourage the submission of examples illustrating the term.

Special Analyses

Certain IRS regulations, including this one, are exempt from the requirements of Executive Order 12866 of, as supplemented and reaffirmed by Executive Order 13563. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations, and because the regulations do not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Pursuant to section 7805(f) of the Code, this notice of proposed rulemaking has been submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact on small business.

Comments and Public Hearing

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

A public hearing has been scheduled for December 16, 2015, beginning at 10 a.m. in the Auditorium of the Internal Revenue Building, 1111 Constitution Avenue NW., Washington, DC. Due to building security procedures, visitors must enter at the Constitution Avenue entrance. Because of access restrictions, visitors will not be admitted beyond the immediate entrance area more than 30 minutes before the hearing starts. In addition, all visitors must present photo identification to enter the building. For information about having your name placed on the building access list to attend the hearing, see the **FOR FURTHER INFORMATION CONTACT** section of this preamble.

The rules of 26 CFR 601.601(a)(3) apply to the hearing. Persons who wish to present oral comments at the hearing must submit electronic or written comments by November 25, 2015, and an outline of the topics to be discussed and the time to be devoted to each topic by November 25, 2015. A period of 10 minutes will be allotted to each person for making comments. An agenda showing the scheduling of the speakers will be prepared after the deadline for receiving outlines has passed. Copies of the agenda will be available free of charge at the hearing.

Drafting Information

The principal author of these regulations is James Holmes, Office of the Associate Chief Counsel (Passthroughs and Special Industries). However, other personnel from the Treasury Department and the IRS participated in their development.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

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

PART 1—INCOME TAXES

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

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

■ **Par. 2.** Section 1.199–0 is amended by:

■ 1. Adding entries in the table of contents for § 1.199–1(f).

■ 2. Revising the entry in the table of contents for § 1.199–2(c) and adding entries for § 1.199–2(c)(1), (2), and (3).

■ 3. Adding an entry in the table of contents for § 1.199–2(f).

■ 4. Redesignating the entry in the table of contents for § 1.199–3(h) as the entry for § 1.199–3(h)(1), adding introductory text for § 1.199–3(h), and adding an entry for § 1.199–3(h)(2).

■ 5. Redesignating the entry in the table of contents for § 1.199–3(i)(9) as the entry for § 1.199–3(i)(10) and adding introductory text and entries in the table of contents for § 1.199–3(i)(9).

■ 6. Redesignating the entry in the table of contents for § 1.199–3(k)(10) as the entry for § 1.199–3(k)(11) and adding an entry for § 1.199–3(k)(10).

■ 7. Adding entries in the table of contents for § 1.199–4(b)(2)(iii).

■ 8. Revising the introductory text in the table of contents for § 1.199–8(i) and adding the entries for § 1.199–8(i)(10) and (i)(11).

The additions and revision read as follows:

§ 1.199–0 Table of contents.

* * * * *

§ 1.199–1 Income attributable to domestic production activities.

* * * * *

(f) Oil related qualified production activities income.

(1) In general.

(i) Oil related QPAI.

(ii) Special rule for oil related DPGR.

(iii) Definition of oil.

(iv) Primary product from oil or gas.

(A) Primary product from oil.

(B) Primary product from gas.

(C) Primary products from changing technology.

(D) Non-primary products.

(2) Cost allocation methods for determining oil related QPAI.

(i) Section 861 method.

(ii) Simplified deduction method.

(iii) Small business simplified overall method.

§ 1.199–2 Wage limitation.

* * * * *

(c) Acquisitions, dispositions, and short taxable years.

(1) Allocation of wages between more than one taxpayer.

(2) Short taxable years.

(3) Operating rules.

(i) Acquisition or disposition.

(ii) Trade or business.

* * * * *

(f) Commonwealth of Puerto Rico.

§ 1.199–3 Domestic production gross receipts.

* * * * *

(h) United States.

* * * * *

(2) Commonwealth of Puerto Rico.

(i) * * *

(9) Engaging in production of qualified films.

(i) In general.

(ii) No double attribution.

(iii) Timing of attribution.

(iv) Examples.

* * * * *

(k) * * *

(10) Special rule for disposition of promotional films and products or services promoted in promotional films.

* * * * *

§ 1.199–4 Costs allocable to domestic production gross receipts.

* * * * *

(b) * * *

(2) * * *

(iii) Cost of goods sold associated with activities undertaken in an earlier taxable year.

(A) In general.

(B) Example.

* * * * *

§ 1.199–8 Other rules.

* * * * *

(i) Effective/applicability dates.

* * * * *

(10) Acquisition or disposition of a trade or business (or major portion).

(11) Energy Improvement and Extension Act of the 2008, Tax Extenders and Alternative Minimum Tax Relief Act of 2008, American Taxpayer Relief Act of 2012, and other provisions.

* * * * *

■ **Par. 3.** Section 1.199–1 is amended by adding paragraph (f) to read as follows:

§ 1.199–1 Income attributable to domestic production activities.

* * * * *

(f) *Oil related qualified production activity income (Oil related QPAI)*—(1) *In general*—(i) *Oil related QPAI.* Oil related QPAI for any taxable year is an amount equal to the excess (if any) of the taxpayer's DPGR (as defined in § 1.199–3) derived from the production, refining or processing of oil, gas, or any primary product thereof (oil related DPGR) over the sum of:

(A) The CGS that is allocable to such receipts; and

(B) Other expenses, losses, or deductions (other than the deduction allowed under this section) that are properly allocable to such receipts. See §§ 1.199–3 and 1.199–4.

(ii) *Special rule for oil related DPGR.* Oil related DPGR does not include gross receipts derived from the transportation or distribution of oil, gas, or any primary product thereof. However, to the extent that a taxpayer treats gross receipts derived from transportation or distribution of oil, gas, or any primary product thereof as DPGR under paragraph (d)(3)(i) of this section or under § 1.199–3(i)(4)(i)(B), then the taxpayer must treat those gross receipts as oil related DGPR.

(iii) *Definition of oil.* The term *oil* includes oil recovered from both conventional and non-conventional recovery methods, including crude oil, shale oil, and oil recovered from tar/oil sands.

(iv) *Primary product from oil or gas.* A primary product from oil or gas is, for purposes of this paragraph:

(A) *Primary product from oil.* The term *primary product from oil* means all products derived from the destructive distillation of oil, including:

(*1*) Volatile products;

(*2*) Light oils such as motor fuel and kerosene;

(*3*) Distillates such as naphtha;

(*4*) Lubricating oils;

(*5*) Greases and waxes; and

(*6*) Residues such as fuel oil.

(B) *Primary product from gas.* The term *primary product from gas* means all gas and associated hydrocarbon components from gas wells or oil wells, whether recovered at the lease or upon further processing, including:

(*1*) Natural gas;

(*2*) Condensates;

(*3*) Liquefied petroleum gases such as ethane, propane, and butane; and

(*4*) Liquid products such as natural gasoline.

(C) *Primary products and changing technology.* The primary products from oil or gas described in paragraphs (f)(1)(iv)(A) and (B) of this section are not intended to represent either the only primary products from oil or gas, or the only processes from which primary products may be derived under existing and future technologies.

(D) *Non-primary products.* Examples of non-primary products include, but are not limited to, petrochemicals, medicinal products, insecticides, and alcohols.

(2) *Cost allocation methods for determining oil related QPAI*—(i) *Section 861 method.* A taxpayer that uses the section 861 method to determine deductions that are allocated and apportioned to gross income attributable to DPGR must use the section 861 method to determine deductions that are allocated and apportioned to gross income attributable to oil related DPGR. See § 1.199–4(d).

(ii) *Simplified deduction method.* A taxpayer that uses the simplified deduction method to apportion deductions between DPGR and non-DPGR must determine the portion of deductions allocable to oil related DPGR by multiplying the deductions allocable to DPGR by the ratio of oil related DPGR divided by DPGR from all activities. See § 1.199–4(e).

(iii) *Small business simplified overall method.* A taxpayer that uses the small business simplified overall method to apportion total costs (CGS and deductions) between DPGR and non-DPGR must determine the portion of total costs allocable to DPGR that are allocable to oil related DPGR by multiplying the total costs allocable to DPGR by the ratio of oil related DPGR divided by DPGR from all activities. See § 1.199–4(f).

■ **Par. 4.** Section 1.199–2 is amended by revising paragraph (c), adding a sentence at the end of paragraph (e)(1), and adding paragraph (f) to read as follows:

§ 1.199–2 Wage limitation.

* * * * *

(c) [The text of the proposed amendments to § 1.199–2(c) is the same as the text of § 1.199–2T(c) published elsewhere in this issue of the **Federal Register**].

* * * * *

(e) * * *

(1) * * * In the case of a qualified film (as defined in § 1.199–3(k)) for taxable years beginning after 2007, the term *W–2 wages* includes compensation for services (as defined in § 1.199–3(k)(4)) performed in the United States by actors, production personnel, directors, and producers (as defined in § 1.199–3(k)(1)).

* * * * *

(f) *Commonwealth of Puerto Rico.* In the case of a taxpayer described in § 1.199–3(h)(2), the determination of W–2 wages of such taxpayer shall be made without regard to any exclusion under section 3401(a)(8) for remuneration paid for services performed in the Commonwealth of Puerto Rico. This paragraph (f) only applies as provided in section 199(d)(8).

■ **Par. 5.** Section 1.199–3 is amended by:

■ 1. In paragraph (d)(4):

■ a. Redesignating *Example 6, Example 7, Example 8, Example 9, Example 10, Example 11,* and *Example 12* as *Example 7, Example 8, Example 9, Example 10, Example 11, Example 12,* and *Example 13,* respectively;

■ b. In newly-designated *Example 10,* removing the language ''*Example 8*'' and adding ''*Example 9*'' in its place; and

■ c. Adding *Example 6* and *Example 14.*

■ 2. Revising the last sentence in paragraphs (e)(1) and (3).

■ 3. In paragraph (e)(5):

■ a. Revising the third sentence in *Example 1,* the second sentence in *Example 4,* and *Example 5.*

■ b. Adding *Example 9.*

■ 4. Revising the last sentence in paragraph (f)(1).

■ 5. Revising *Example 1,* removing *Example 2,* and redesignating *Example 3* as *Example 2* in paragraph (f)(4).

■ 6. Removing the second and third sentences in paragraph (g)(1).

■ 7. Revising paragraph (g)(4)(i).

■ 8. Redesignating paragraph (h) as paragraph (h)(1), adding paragraph (h) heading and adding paragraph (h)(2).

■ 9. Revising paragraph (i)(3).

■ 10. Removing *Example 3;* redesignating *Example 5* as *Example 3;* and revising *Example 4* in paragraph (i)(5)(iii).

■ 11. In paragraph (i)(6)(iv)(D)(*2*), removing the language ''§ 1.199–3T(i)(8)'' and adding ''§ 1.199–3(i)(8)'' in its place.

■ 12. Redesignating paragraph (i)(9) as paragraph (i)(10) and adding paragraph (i)(9).

■ 13. Adding three sentences after the first sentence in paragraph (k)(1),

revising paragraph (k)(2)(ii) introductory text, and adding a sentence at the end of paragraph (k)(3)(i).

■ 14. Removing the first, second, and fifth sentences in paragraph (k)(3)(ii).

■ 15. Adding one sentence at the end of paragraph (k)(6).

■ 16. Adding two sentences before the last sentence in paragraph (k)(7)(i).

■ 17. Revising the last sentence in paragraph (k)(8).

■ 18. Redesignating paragraph (k)(10) as paragraph (k)(11) and adding paragraph (k)(10).

■ 19. In newly redesignated paragraph (k)(11):

■ a. Revising *Example 3;*

■ b. Removing *Example 4;* redesignating *Example 5* and *Example 6* as *Example 4* and *Example 5,* respectively; and adding *Example 6, Example 7, Example 8, Example 9, Example 10,* and *Example 11;* and

■ c. Revising the third sentence in newly redesignated *Example 4.*

■ 20. Adding one sentence at the end of paragraph (m)(2)(i).

■ 21. Revising paragraph (m)(5).

The revisions and additions read as follows:

§ 1.199–3 Domestic production gross receipts.

* * * * *

(d) * * *

(4) * * *

Example 6. The facts are the same as *Example 3* except that R offers three-car sets together with a coupon for a car wash for sale to customers in the normal course of R's business. The gross receipts attributable to the car wash do not qualify as DPGR because a car wash is a service, assuming the de minimis exception under paragraph (i)(4)(i)(B)(6) of this section does not apply. In determining R's DPGR, under paragraph (d)(2)(i) of this section, the three-car set is an item if the gross receipts derived from the sale of the three-car sets without the car wash qualify as DPGR under this section.

* * * * *

Example 14. Z is engaged in the trade or business of construction under NAICS code 23 on a regular and ongoing basis. Z purchases a piece of property that has two buildings located on it. Z performs construction activities in connection with a project to substantially renovate building 1. Building 2 is not substantially renovated and together building 1 and building 2 are not substantially renovated, as defined under paragraph (m)(5) of this section. Z later sells building 1 and building 2 together in the normal course of Z's business. Z can use any reasonable method to determine what construction activities constitute an item under paragraph (d)(2)(iii) of this section. Z's method is not reasonable if Z treats the gross receipts derived from the sale of building 1 and building 2 as DPGR. This is because Z's construction activities would not have substantially renovated buildings 1 and 2 if they were considered together as one item. Z's method is reasonable if it treats the construction activities with respect to building 1 as the item under paragraph (d)(2)(iii) of this section because the proceeds from the sale of building 1 constitute DPGR.

(e) * * *

(1) * * * Pursuant to paragraph (f)(1) of this section, the taxpayer must be the party engaged in the MPGE of the QPP during the period the MPGE activity occurs in order for gross receipts derived from the MPGE of QPP to qualify as DPGR.

* * * * *

(3) * * * Notwithstanding paragraph (i)(4)(i)(B)(*4*) of this section, if the taxpayer installs QPP MPGE by the taxpayer, then the portion of the installing activity that relates to the QPP is an MPGE activity.

* * * * *

(5) * * *

Example 1. * * * A stores the agricultural products. * * *

* * * * *

Example 4. * * * Y engages in the reconstruction and refurbishment activity and installation of the parts. * * *

Example 5. The following activities are performed by Z as part of the MPGE of the QPP: Materials analysis and selection, subcontractor inspections and qualifications, testing of component parts, assisting customers in their review and approval of the QPP, routine production inspections, product documentation, diagnosis and correction of system failure, and packaging for shipment to customers. Because Z MPGE the QPP, these activities performed by Z are part of the MPGE of the QPP. If Z did not MPGE the QPP, then these activities, such as testing of component parts, performed by Z are not the MPGE of QPP.

* * * * *

Example 9. X is in the business of selling gift baskets containing various products that are packaged together. X purchases the baskets and the products included within the baskets from unrelated third parties. X plans where and how the products should be arranged into the baskets. On an assembly line in a gift basket production facility, X arranges the products into the baskets according to that plan, sometimes relabeling the products before placing them into the baskets. X engages in no other activity besides packaging, repackaging, labeling, or minor assembly with respect to the gift baskets. Therefore, X is not considered to have engaged in the MPGE of QPP under paragraph (e)(2) of this section.

* * * * *

(f) * * *

(1) * * * If a qualifying activity under paragraph (e)(1), (k)(1), or (l)(1) of this section is performed under a contract, then the party to the contract that is the taxpayer for purposes of this paragraph (f) during the period in which the qualifying activity occurs is the party performing the qualifying activity.

* * * * *

(4) * * *

Example 1. X designs machines that it sells to customers. X contracts with Y, an unrelated person, for the manufacture of the machines. The contract between X and Y is a fixed-price contract. To manufacture the machines, Y purchases components and raw materials. Y tests the purchased components. Y manufactures the raw materials into additional components and Y physically performs the assembly of the components into machines. Y oversees and directs the activities under which the machines are manufactured by its employees. X also has employees onsite during the manufacturing for quality control. Y packages the finished machines and ships them to X's customers. Pursuant to paragraph (f)(1) of this section, Y is the taxpayer during the period the manufacturing of the machines occurs and, as a result, Y is treated as the manufacturer of the machines.

* * * * *

(g) * * *

(4) * * *

(i) *Contract with an unrelated person.* If a taxpayer enters into a contract with an unrelated person pursuant to which the unrelated person is required to MPGE QPP within the United States for the taxpayer, the taxpayer is not considered to have engaged in the MPGE of that QPP pursuant to paragraph (f)(1) of this section, and therefore, for purposes of making any determination under this paragraph (g), the MPGE or production activities or direct labor and overhead of the unrelated person under the contract are only attributed to the unrelated person.

* * * * *

(h) *United States* * * *

(2) *Commonwealth of Puerto Rico.* The term *United States* includes the Commonwealth of Puerto Rico in the case of any taxpayer with gross receipts for any taxable year from sources within the Commonwealth of Puerto Rico, if all of such receipts are taxable under section 1 or 11 for such taxable year. This paragraph (h)(2) only applies as provided in section 199(d)(8).

(i) * * *

(3) *Hedging transactions*—(i) *In general.* For purposes of this section, provided that the risk being hedged relates to property described in section 1221(a)(1) giving rise to DPGR or relates to property described in section 1221(a)(8) consumed in an activity giving rise to DPGR, and provided that the transaction is a hedging transaction within the meaning of section 1221(b)(2)(A) and § 1.1221–2(b) and is properly identified as a hedging transaction in accordance with § 1.1221–2(f), then—

(A) In the case of a hedge of purchases of property described in section 1221(a)(1), income, deduction, gain, or loss on the hedging transaction must be taken into account in determining CGS;

(B) In the case of a hedge of sales of property described in section 1221(a)(1), income, deduction, gain, or loss on the hedging transaction must be taken into account in determining DPGR; and

(C) In the case of a hedge of purchases of property described in section 1221(a)(8), income, deduction, gain, or loss on the hedging transaction must be taken into account in determining DPGR.

(ii) *Effect of identification and nonidentification.* The principles of § 1.1221–2(g) apply to a taxpayer that identifies or fails to identify a transaction as a hedging transaction, except that the consequence of identifying as a hedging transaction a transaction that is not in fact a hedging transaction described in paragraph (i)(3)(i) of this section, or of failing to identify a transaction that the taxpayer has no reasonable grounds for treating as other than a hedging transaction described in paragraph (i)(3)(i) of this section, is that deduction or loss (but not income or gain) from the transaction is taken into account under paragraph (i)(3) of this section.

(iii) *Other rules.* See § 1.1221–2(e) for rules applicable to hedging by members of a consolidated group and § 1.446–4 for rules regarding the timing of income, deductions, gains or losses with respect to hedging transactions.

* * * * *

(5) * * *

(iii) * * *

Example 4. X produces a live television program that is a qualified film. In 2010, X broadcasts the television program on its station and distributes the program through the Internet. The television program contains product placements and advertising for which X received compensation in 2010. Because the methods and means of distributing a qualified film under paragraph (k)(1) of this section do not affect the availability of the deduction under section 199 for taxable years beginning after 2007, pursuant to paragraph (i)(5)(ii) of this section, all of X's product placement and advertising gross receipts for the program are treated as derived from the distribution of the qualified film.

* * * * *

(9) *Partnerships and S corporations engaging in production of qualified films*—(i) *In general.* For taxable years beginning after 2007, in the case of each partner of a partnership or shareholder of an S corporation who owns (directly or indirectly) at least 20 percent of the capital interests in such partnership or the stock of such S corporation, such partner or shareholder shall be treated as having engaged directly in any qualified film produced by such partnership or S corporation, and such partnership or S corporation shall be treated as having engaged directly in any qualified film produced by such partner or shareholder.

(ii) *No double attribution.* When a partnership or S corporation is treated as having engaged directly in any qualified film produced by a partner or shareholder, any other partners of the partnership or shareholders of the S corporation who did not participate directly in the production of the qualified film are treated as not having engaged directly in the production of the qualified film at the partner or shareholder level. When a partner or shareholder is treated as having engaged directly in any qualified film produced by a partnership or S corporation, any other partnerships or S corporations in which that partner or shareholder owns an interest (excluding the partnership or S corporation that produced the film), are treated as not having engaged directly in the production of the qualified film at the partnership or S corporation level.

(iii) *Timing of attribution.* A partner or shareholder is treated as having engaged directly in any qualified film produced by the partnership or S corporation, regardless of when the qualified film was produced by the partnership or S corporation, during any period that the partner or shareholder owns (directly or indirectly) at least 20 percent of the capital interests in the partnership or stock of the S corporation (attribution period). During any period that a partner or shareholder owns less than a 20 percent of the capital interests in such partnership or the stock of such S corporation, that partner or shareholder is not treated as having engaged directly in the qualified film produced by the partnership or S corporation for purposes of this paragraph (i)(9). A partnership or S corporation is treated as having engaged directly in a qualified film produced by a partner or shareholder during any period the partner or shareholder owns (directly or indirectly) at least 20 percent of the capital interests in such partnership or the stock of S corporation (attribution period). During any period that the partner or shareholder owns less than 20 percent of the capital interests in such partnership or stock of such S corporation, the partnership or S corporation is not treated as having engaged directly in the qualified film produced by the partner or shareholder for purposes of this paragraph (i)(9). The attribution period under this paragraph (i)(9) may be shorter or longer than a taxpayer's taxable year, depending on the length of the attribution period.

(iv) *Examples.* The following examples illustrate an application of this paragraph (i)(9). Assume that all taxpayers are calendar year taxpayers.

Example 1. In 2010, Studio A and Studio B form an S corporation in which each is a 50-percent shareholder to produce a qualified film. Studio A owns the rights to distribute the film domestically and Studio B owns the rights to distribute the film outside of the United States. The production activities of the S corporation are attributed to each shareholder, and thus each shareholder's revenue from the distribution of the qualified film is treated as DPGR during the attribution period because Studio A and Studio B are treated as having directly engaged in any film that was produced by the S corporation.

Example 2. The facts are the same as *Example 1* except that, in 2011, after the S corporation's production of the qualified film, Studio C becomes a shareholder that owns at least 20 percent of the stock of the S corporation. Studio C is treated as having directly engaged in any film that was produced by the S corporation during the attribution period, as defined in paragraph (i)(9)(iii) of this section.

Example 3. In 2010, Studio A and Studio B form a partnership in which each is a 50-percent partner to distribute a qualified film. Studio A produced the film and contributes it to the partnership and Studio B contributes cash to the partnership. The production activities of Studio A are attributed to the partnership, and thus the partnership's revenue from the distribution of the qualified film is treated as DPGR during the attribution period, as defined in paragraph (i)(9)(iii) of this section, because the partnership is treated as having directly engaged in any film that was produced by Studio A.

Example 4. The facts are the same as *Example 3* except that Studio B receives a distribution of the rights to license an intangible associated with the qualified film produced by Studio A. Any receipts derived from the licensing of the intangible by Studio B are non-DPGR because Studio A's production activities are attributed to the partnership, and are not further attributed to Studio B.

Example 5. The facts are the same as *Example 3* except that, at some point in 2011, Studio A owns less than a 20-percent capital interest in the partnership. During the period that Studio A owns less than a 20-percent capital interest in the partnership between Studio A and Studio B, the partnership is not treated as directly engaging in the production of a qualified film. Therefore, any future receipts the partnership derives from the film after the end of the attribution period, as defined in paragraph (i)(9)(iii) of this section, are non-DPGR. Studio A, however, is still treated as having engaged directly in the production of the qualified film.

* * * * *

(k) * * *

(1) * * * For taxable years beginning after 2007, the term *qualified film*

includes any copyrights, trademarks, or other intangibles with respect to such film (intangibles). For purposes of this paragraph (k), other intangibles include rights associated with the exploitation of a qualified film, such as endorsement rights, video game rights, merchandising rights, and other similar rights. See paragraph (k)(10) of this section for a special rule for disposition of promotional films. * * *

(2) * * *

(ii) *Film produced by a taxpayer.* Except for intangibles under paragraph (k)(1) of this section, if a taxpayer produces a film and the film is affixed to tangible personal property (for example, a DVD), then for purposes of this section—

* * * * *

(3) * * *

(i) * * * For taxable years beginning after 2007, the methods and means of distributing a qualified film shall not affect the availability of the deduction under section 199.

* * * * *

(6) * * * Production activities do not include transmission or distribution activities with respect to a film, including the transmission of a film by electronic signal and the activities facilitating such transmission (such as formatting that enables the film to be transmitted).

(7) * * *

(i) * * * Paragraph (g)(3)(ii) of this section includes all costs paid or incurred by a taxpayer, whether or not capitalized or required to be capitalized under section 263A, to produce a live or delayed television program, and also includes any lease, rental, or license fees paid by a taxpayer for all or any portion of a film, or films produced by a third party that taxpayer uses in its film. License fees for films produced by third parties are not included in the direct labor and overhead to produce the film for purposes of applying paragraph (g)(3) of this section. * * *

* * * * *

(8) * * * If one party performs a production activity pursuant to a contract with another party, then only the party that is considered the taxpayer pursuant to paragraph (f)(1) of this section during the period in which the production activity occurs is treated as engaging in the production activity.

* * * * *

(10) *Special rule for disposition of promotional films and products or services promoted in promotional films.* A promotional film is a film produced to promote a taxpayer's particular product or service and the term includes, but is not limited to, commercials, infomercials, advertising films, and sponsored films. A product or service is promoted in a promotional film if the product or service appears in, is described during, or is in a similar way alluded to by such film. If a promotional film meets the requirements to be treated as a qualified film produced by the taxpayer, then a taxpayer derives gross receipts from the lease, rental, license, sale, exchange, or other disposition of a qualified film, including any copyrights, trademarks, or other intangibles when the promotional film's disposition is distinct (separate and apart) from the disposition of the promoted product or service. Gross receipts are not derived from the disposition of a qualified film, including any copyrights, trademarks, or other intangibles when gross receipts are derived from a disposition of the promoted product or service.

(11) * * *

Example 3. X produces live television programs that are qualified films. X shows the programs on its own television station. X sells advertising time slots to advertisers for the television programs. Because the methods and means of distributing a qualified film under paragraph (k)(1) of this section do not affect the availability of the deduction under section 199 for taxable years beginning after 2007, the advertising income X receives from advertisers is derived from the lease, rental, license, sale, exchange, or other disposition of the qualified films and is DPGR.

Example 4. * * * Y is considered the taxpayer performing the qualifying activities pursuant to paragraph (f)(1) of this section with respect to the DVDs during the MPGE and duplication process. * * *

* * * * *

Example 6. X produced a qualified film and licenses the trademark of Character A, a character in the qualified film, to Y for reproduction of the Character A image onto t-shirts. Y sells the t-shirts with Character A's likeness to customers, and pays X a royalty based on sales of the t-shirts. X's qualified film only includes intangibles with respect to the qualified film in taxable years beginning after 2007, including the trademark of Character A. Accordingly, any gross receipts derived from the license of the trademark of Character A to Y occurring in a taxable year beginning before 2008 are non-DPGR, and any gross receipts derived from the license of the trademark of Character A occurring in a taxable year beginning after 2007 are DPGR (assuming all other requirements of this section are met). The royalties X derives from Y occurring in a taxable year beginning before 2008 are non-DPGR because the royalties are derived from an intangible (which is not within the definition of a qualified film under paragraph (k)(1) of this section for taxable years beginning before 2008).

Example 7. Y, a media company, acquires all of the intangible rights to Book A, which was written and published in 2008, and all of the intangible rights associated with a qualified film that is based on Book A. The qualified film based on Book A is produced in 2009 by Y. Y owns the copyright and trademark to Character B, the lead character in Book A and the qualified film based on Book A. Y licenses Character B's copyright and trademark to Z for $50,000,000. For 2009, without taking into account the payment from Z, Y derives 40 percent of its gross receipts from the qualified film based on Book A, and 60 percent from Book A. Z's payment is attributable to both Book A and the qualified film based on Book A. Therefore, Y must allocate Z's payment, and only the gross receipts derived from licensing the intangible rights associated with the qualified film based on Book A, or 40 percent, are DPGR.

Example 8. Z produces a commercial in the United States that features Z's shirts, shoes, and other athletic equipment that all have Z's trademarked logo affixed (promoted products). Z's commercial is a qualified film produced by Z. Z sells the shirts, shoes, and athletic equipment to customers at retail establishments. Z's gross receipts are derived from the disposition of the promoted products and are not derived from the disposition of Z's qualified film, including any copyrights, trademarks, or other intangibles with respect to Z's qualified film.

Example 9. X produces a commercial in the United States that features X's services (promoted services). X's commercial is a qualified film produced by X. The commercial includes Character A developed to promote X's services. Gross receipts that X derives from providing the promoted services are not derived from the disposition of X's qualified film, including any copyrights, trademarks, or other intangibles with respect to X's qualified film. X also licenses the right to reproduce Character A developed to promote X's services to Y so that Y can produce t-shirts featuring Character A. This license is distinct (separate and apart) from a disposition of the promoted services and the gross receipts are derived from the license of an intangible with respect to X's qualified film produced by X. X's gross receipts derived from the license to reproduce Character A are DPGR.

Example 10. Y produces a qualified film in the United States. Y purchases DVDs and affixes the qualified film to the DVDs. Y purchases gift baskets and sells individual gift baskets that contain a DVD with the affixed qualified film in its retail stores in the normal course of Y's business. Under § 1.199–3(k)(2)(ii)(A), Y may treat the DVD as part of the qualified film produced by taxpayer, but Y cannot treat the gift baskets as part of the qualified film produced by taxpayer. The gross receipts that Y derives from the sale of the DVD are DPGR derived from a qualified film, but the gross receipts that Y derives from the sale of the gift baskets are non-DPGR.

Example 11. The facts are the same as in *Example 10* except that the individual gift baskets that Y sells also contain boxes of popcorn and candy manufactured by Y within the United States. Under § 1.199–3(k)(2)(ii)(A), Y cannot treat the gift baskets including the boxes of popcorn and candy manufactured by Y as part of the qualified

film produced by taxpayer. Gross receipts from the sale of the DVD are still treated as DPGR derived from a qualified film. Y must separately determine whether the gross receipts from the tangible personal property it sells qualify as DPGR. Thus, Y must determine whether the gift basket, including the boxes of popcorn and candy but excluding the qualified film, is an item for purposes of § 1.199–3(d)(1)(i).

* * * * *

(m) * * *

(2) * * *

(i) * * * A taxpayer whose engagement in the activity is primarily limited to approving or authorizing invoices or payments is not considered engaged in a construction activity as a general contractor or in any other capacity.

* * * * *

(5) *Definition of substantial renovation.* The term *substantial renovation* means activities the costs of which would be required to be capitalized by the taxpayer as an improvement under § 1.263(a)–3, other than an amount described in § 1.263(a)–3(k)(1)(i) through (iii). If not otherwise defined under § 1.263(a)–3, the unit of property for purposes of § 1.263(a)–3 is the real property, as defined in paragraph (m)(3) of this section, to which the activities relate.

* * * * *

Par. 6. Section 1.199–4 is amended by adding a sentence after the seventh sentence in paragraph (b)(1) and adding paragraph (b)(2)(iii) to read as follows:

§ 1.199–4 Costs allocable to domestic production gross receipts.

* * * * *

(b) * * *

(1) * * * In the case of a long-term contract accounted for under the percentage-of-completion method described in § 1.460–4(b) (PCM), or the completed-contract method described in § 1.460–4(d) (CCM), CGS for purposes of this section includes the allocable contract costs described in § 1.460–5(b) (in the case of a contract accounted for under PCM) or § 1.460–5(d) (in the case of a contract accounted for under CCM). * * *

(2) * * *

(iii) *Cost of goods sold associated with activities undertaken in an earlier taxable year*—(A) *In general.* A taxpayer must allocate CGS between DPGR and non-DPGR under the rules provided in paragraphs (b)(2)(i) and (ii) of this section, regardless of whether certain costs included in CGS can be associated with activities undertaken in an earlier taxable year (including a year prior to the effective date of section 199). A taxpayer may not segregate CGS into component costs and allocate those component costs between DPGR and non-DPGR.

(B) *Example.* The following example illustrates an application of paragraph (b)(2)(iii)(A) of this section:

Example. During the 2009 taxable year, X manufactured and sold Product A. All of the gross receipts from sales recognized by X in 2009 were from the sale of Product A and qualified as DPGR. Employee 1 was involved in X's production process until he retired in 2003. In 2009, X paid $30 directly from its general assets for Employee 1's medical expenses pursuant to an unfunded, self-insured plan for retired X employees. For purposes of computing X's 2009 taxable income, X capitalized those medical costs to inventory under section 263A. In 2009, the CGS for a unit of Product A was $100 (including the applicable portion of the $30 paid for Employee 1's medical costs that was allocated to cost of goods sold under X's allocation method for additional section 263A costs). X has information readily available to specifically identify CGS allocable to DPGR and can identify that amount without undue burden and expense because all of X's gross receipts from sales in 2009 are attributable to the sale of Product A and qualify as DPGR. The inventory cost of each unit of Product A sold in 2009, including the applicable portion of retiree medical costs, is related to X's gross receipts from the sale of Product A in 2009. X may not segregate the 2009 CGS by separately allocating the retiree medical costs, which are components of CGS, to DPGR and non-DPGR. Thus, even though the retiree medical costs can be associated with activities undertaken in prior years, $100 of inventory cost of each unit of Product A sold in 2009, including the applicable portion of the retiree medical expense cost component, is allocable to DPGR in 2009.

* * * * *

■ **Par. 7.** Section 1.199–6 is amended by adding *Example 4* to paragraph (m) to read as follows:

§ 1.199–6 Agricultural and horticultural cooperatives.

* * * * *

(m) * * *

Example 4. (i) The facts are the same as *Example 1* except that Cooperative X's payments of $370,000 for its members' corn qualify as per-unit retain allocations paid in money within the meaning of section 1388(f) and Cooperative X reports the per-unit retain allocations paid in money on Form 1099–PATR.

(ii) Cooperative X is a cooperative described in paragraph (f) of this section. Accordingly, this section applies to Cooperative X and its patrons and all of Cooperative X's gross receipts from the sale of its patrons' corn qualify as domestic production gross receipts (as defined in § 1.199–3(a)). Cooperative X's QPAI is $1,370,000. Cooperative X's section 199 deduction for its taxable year 2007 is $82,200 (.06 × $1,370,000). Because this amount is more than 50% of Cooperative X's W–2 wages (.5 × $130,000 = $65,000), the entire amount is not allowed as a section 199 deduction, but is instead subject to the wage limitation section 199(b), and also remains subject to the rules of section 199(d)(3) and this section.

■ **Par. 8.** Section 1.199–8 is amended by revising the heading of paragraph (i) and adding paragraphs (i)(10) and (11) to read as follows:

§ 1.199–8 Other rules.

* * * * *

(i) *Effective/applicability dates* * * *

* * * * *

(10) [The text of the proposed amendments to § 1.199–8(i)(10) is the same as the text of § 1.199–8T(i)(10) published elsewhere in this issue of the **Federal Register**].

(11) *Energy Improvement and Extension Act of the 2008, Tax Extenders and Alternative Minimum Tax Relief Act of 2008, Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010, and other provisions.* Section 1.199–1(f); the last sentence in § 1.199–2(e)(1) and paragraph (f); § 1.199–3(d)(4) *Example 6* and *Example 14,* the last sentence in paragraph (e)(1), the last sentence in paragraph (e)(3), the third sentence in paragraph (e)(5) *Example 1,* the second sentence in paragraph (e)(5) *Example 4,* paragraph (e)(5) *Example 5* and *Example 9,* the last sentence in paragraph (f)(1), paragraph (f)(4) *Example 1,* paragraph (g)(4)(i), paragraphs (h)(2), (i)(3), (i)(5) *Example 4,* and (i)(9), the second, third, and fourth sentences in paragraph (k)(1), paragraph (k)(2)(ii), the second sentence in paragraph (k)(3)(i), the last sentence in paragraph (k)(6), the second sentence from the last sentence in paragraph (k)(7)(i), the last sentence in paragraph (k)(8), paragraph (k)(10), the third sentence in paragraph (k)(11) *Example 4,* paragraph (k)(11) *Example 3, Example 6, Example 7, Example 8, Example 9, Example 10,* and *Example 11,* the last sentence in paragraph (m)(2)(i), paragraph (m)(5); the eighth sentence in § 1.199–4(b)(1) and paragraph (b)(2)(iii); and § 1.199–6(m) *Example 4* apply to taxable years beginning on or after the date the final regulations are published in the **Federal Register**.

John M. Dalrymple,

Deputy Commissioner for Services and Enforcement.

[FR Doc. 2015–20772 Filed 8–26–15; 8:45 am]

BILLING CODE 4830–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 49, 51, 52, 60, 70, and 71

[EPA–HQ–OAR–2013–0685; EPA–HQ–OAR–2010–0505; EPA–HQ–OAR–2014–0606; FRL–9933–15–OAR]

Source Determination for Certain Emission Units in the Oil and Natural Gas Sector; Oil and Natural Gas Sector: Emission Standards for New and Modified Sources; and Review of New Sources and Modifications in Indian Country: Federal Implementation Plan for Managing Air Emissions From True Minor Sources Engaged in Oil and Natural Gas Production in Indian Country

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; notice of public hearings.

SUMMARY: The Environmental Protection Agency (EPA) is announcing three public hearings to be held for three proposed rules titled, ''Source Determination for Certain Emission Units in the Oil and Natural Gas Sector,'' ''Oil and Natural Gas Sector: Emission Standards for New and Modified Sources,'' and ''Review of New Sources and Modifications in Indian Country: Federal Implementation Plan for Managing Air Emissions from True Minor Sources Engaged in Oil and Natural Gas Production in Indian Country.'' Two hearings will be held on September 23, 2015, simultaneously—one in Denver, CO, and one in Dallas, TX. One hearing will be on September 29, 2015, in Pittsburgh, PA.

DATES: Two public hearings will be held at different locations on September 23, 2015, and one public hearing will be held on September 29, 2015.

ADDRESSES: The September 23, 2015, Denver, CO, hearing will be held at the EPA, Region 8, 1595 Wynkoop Street, Denver, CO 80202. The September 23, 2015, Dallas, TX, hearing will be held at the Dallas City Hall, Council Chambers, 1500 Marilla Street, Dallas, TX 75201. The September 29, 2015, Pittsburgh, PA, hearing will be held at the William S. Moorhead Federal Building, 1000 Liberty Avenue, Pittsburgh, PA 15222. Identification is required at the Denver, CO, and Pittsburgh, PA, hearings because they are being held in federal facilities. If your driver's license is issued by American Samoa, Louisiana, Minnesota, New Hampshire or New York, you must present an additional form of identification to enter (*see* **SUPPLEMENTARY INFORMATION** for additional information on this location).

FOR FURTHER INFORMATION CONTACT: For information related to these public hearings, please contact Ms. Aimee St. Clair, Office of Air Quality Planning and Standards (E143–03), U.S. Environmental Protection Agency, by phone at (919) 541–1063, or by email at *StClair.Aimee@epa.gov.* To register to speak at these public hearings, please use the online registration form available at *http://www.epa.gov/airquality/oilandgas/,* no later than September 18, 2015, for the hearings in Denver, CO and Dallas, TX, and no later than September 25, 2015, for the hearing in Pittsburgh, PA.

For questions concerning the proposed rule titled, ''Source Determination for Certain Emission Units in the Oil and Natural Gas Sector,'' contact Ms. Cheryl Vetter, Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, by phone at (919) 541–4391, or by email at *vetter.cheryl@epa.gov.*

For questions concerning the proposed rule titled, ''Oil and Natural Gas Sector: Emission Standards for New and Modified Sources,'' contact Mr. Bruce Moore, Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, by phone at (919) 541–5460, or by email at *moore.bruce@epa.gov.*

For questions concerning the proposed rule titled, ''Review of New Sources and Modifications in Indian Country: Federal Implementation Plan for Managing Air Emissions from True Minor Sources Engaged in Oil and Natural Gas Production in Indian Country,'' contact Mr. Christopher Stoneman, Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, by phone at (919) 541–0823, or by email at *stoneman.christopher@epa.gov.*

SUPPLEMENTARY INFORMATION: The public hearings will be held to accept oral comments on all three proposed rulemakings listed in the summary section of this document. Commenters may choose to speak on one or more of the three proposed rulemakings.

All three hearings will begin at 9:00 a.m. and will conclude at 8:00 p.m. (local time). There will be a lunch break from 12:00 p.m. to 1:00 p.m. (local time) and a dinner break from 5:00 p.m. to 6:00 p.m. (local time). To register to speak at the hearings, please use the online registration form available at *http://www.epa.gov/airquality/oilandgas/registration.html.* For questions regarding registration, please contact Aimee St. Clair at (919) 541–1063. The last day to pre-register to speak at the Denver, CO, and Dallas, TX, hearings will be September 18, 2015. The last day to pre-register to speak at the Pittsburgh, PA, hearing will be September 23, 2015. Additionally, requests to speak will be taken the day of the hearings at the hearings registration desk, although preferences on speaking times may not be able to be fulfilled. Please note that registration requests received before the hearings will be confirmed by the EPA via email. We cannot guarantee that we can accommodate all timing requests and will provide requestors with the next available speaking time, in the event that their requested time is taken. Please note that the time outlined in the confirmation email will be the scheduled speaking time. Depending on the flow of the day, times may fluctuate. If you require the service of a translator or special accommodations such as audio description, we ask that you pre-register for the Denver, CO, and Dallas, TX, hearings no later than September 18, 2015, and the Pittsburgh, PA, hearing no later than September 23, 2015, as we may not be able to arrange such accommodations without advance notice. Please note that any updates made to any aspect of the hearing will be posted online at *http://www.epa.gov/airquality/oilandgas/.* While the EPA expects the hearings to go forward as set forth above, we ask that you monitor our Web site or contact Aimee St. Clair at (919) 541–1063 to determine if there are any updates to the information on the hearings. The EPA does not intend to publish a document in the **Federal Register** announcing any such updates.

Oral testimony will be limited to 5 minutes for each commenter. The EPA encourages commenters to provide the EPA with a copy of their oral testimony electronically (via email) before the hearings and in hard copy form at the hearings.

The hearings will provide interested parties the opportunity to present data, views, or arguments concerning the proposed actions. The EPA will make every effort to accommodate all speakers who wish to register to speak at the hearing venues on the day of the hearings. The EPA may ask clarifying questions during the oral presentations, but will not respond to the presentations at that time. Written statements and supporting information submitted during the comment period will be considered with the same weight as oral comments and supporting information presented at the public hearings. Verbatim transcripts of the hearings and written statements will be included in the dockets for each rulemaking. The EPA plans for the

hearings to run on schedule; however, due to on-site schedule fluctuations, actual speaking times may shift slightly.

Because the Denver, CO, and Pittsburgh, PA, hearings are being held at United States government facilities, individuals planning to attend these hearings should be prepared to show valid picture identification to the security staff in order to gain access to the meeting room. Please note that the REAL ID Act, passed by Congress in 2005, established new requirements for entering federal facilities. If your driver's license is issued by American Samoa, Louisiana, Minnesota, New Hampshire or New York, you must present an additional form of identification to enter the federal building. Acceptable alternative forms of identification include: Federal employee badges, passports, enhanced driver's licenses, and military identification cards. For additional information for the status of your state regarding REAL ID, go to *http://www.dhs.gov/real-id-enforcement-brief.* In addition, you will need to obtain a property pass for any personal belongings you bring with you. Upon leaving the buildings, you will be required to return this property pass to the security desk. No large signs will be allowed in the buildings, cameras may only be used outside of the buildings, and demonstrations will not be allowed on federal property for security reasons.

At all of the hearing locations, atttendees will be asked to go through metal detectors. To help facilitate this process, please be advised that you will be asked to remove all items from all pockets and place them in provided bins for screening; remove laptops, phones, or other electronic devices from their carrying case and place in provided bins for screening; avoid shoes with metal shanks, toe guards, or supports as a part of their construction; remove any metal belts, metal belt buckles, large jewelry, watches; and follow the instructions of the guard if identified for secondary screening. Additionally, no weapons (*e.g.,* pocket knives) or drugs or drug paraphernalia (*e.g.,* marijuana) will be allowed in the buildings. We recommend that you arrive 20 minutes in advance of your speaking time in Denver, CO, Dallas, TX, and Pittsburgh, PA, to allow time to go through security and to check in with the registration desk.

How can I get copies of this document and other related information?

The EPA has established separate dockets for all three of the proposed rulemakings (available at *http://www.regulations.gov*). For the proposed rulemaking titled, ''Source Determination for Certain Emission Units in the Oil and Natural Gas Sector,'' the Docket ID No. is EPA–HQ–OAR–2013–0685. For the proposed rulemaking titled, ''Oil and Natural Gas Sector: Emission Standards for New and Modified Sources,'' the Docket ID No. is EPA–HQ–OAR–2010–0505. For the proposed rulemaking titled, ''Review of New Sources and Modifications in Indian Country: Federal Implementation Plan for Managing Air Emissions from True Minor Sources Engaged in Oil and Natural Gas Production in Indian Country,'' the Docket ID No. is EPA–HQ–OAR–2014–0606. All three proposed rulemakings are posted at *http://www.epa.gov/airquality/oilandgas/actions.html.* If you need assistance in accessing any information related to these rulemakings, please contact Ms. Aimee St. Clair, Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, by phone at (919) 541–1063, or by email at *StClair.Aimee@epa.gov.*

Dated: August 21, 2015.

Mary E. Henigin,

Acting Director, Office of Air Quality Planning and Standards.

[FR Doc. 2015–21255 Filed 8–26–15; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–HQ–OAR–2015–0468; FRL–9933–06–OAR]

Determinations of Attainment by the Attainment Date, Extensions of the Attainment Date, and Reclassification of Several Areas Classified as Marginal for the 2008 Ozone National Ambient Air Quality Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing three separate and independent determinations related to the 36 areas that are currently classified as ''Marginal'' for the 2008 ozone National Ambient Air Quality Standards (NAAQS). First, the EPA is proposing to determine that 17 areas attained the 2008 ozone NAAQS by the applicable attainment date of July 20, 2015, based on complete, quality-assured and certified ozone monitoring data for 2012–2014. Second, the EPA is proposing to grant 1-year attainment date extensions for eight areas on the basis that the requirements for such extensions under the Clean Air Act (CAA or Act) have been met. Third, the EPA is proposing to determine that 11 areas failed to attain the 2008 ozone NAAQS by the applicable attainment date of July 20, 2015, and that they are not eligible for an extension, and to reclassify these areas as ''Moderate'' for the 2008 ozone NAAQS. Once reclassified as Moderate, states must submit State Implementation Plan (SIP) revisions that meet the statutory and regulatory requirements that apply to 2008 ozone NAAQS nonattainment areas classified as Moderate. In this action, the EPA is proposing and taking comment on two options for the deadline by which states would need to submit to the EPA for review and approval the SIP revisions required for Moderate areas once their areas are reclassified.

DATES: *Comments.* Comments must be received on or before September 28, 2015. *Public Hearings.* If anyone contacts us requesting a public hearing on or before September 11, 2015, we will hold a public hearing. Please refer to **SUPPLEMENTARY INFORMATION** for additional information on the comment period and the public hearing.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–OAR–2015–0468, 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: Mr. Cecil (Butch) Stackhouse, Office of Air Quality Planning and Standards, Air Quality Policy Division, Mail Code C539–01, Research Triangle Park, NC 27711, telephone (919) 541–5208; fax number: (919) 541–5315; email address: *stackhouse.butch@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

Entities potentially affected by this action include states (typically state air pollution control agencies), the District of Columbia and, in some cases, tribal governments. In particular, 26 states [1] with areas designated nonattainment and classified as ''Marginal'' for the 2008 ozone NAAQS and the District of Columbia are affected by this action. Entities potentially affected indirectly by this proposal include owners and operators of sources of volatile organic compounds (VOC) and nitrogen oxides (NO_X) emissions that contribute to ground-level ozone formation within the subject ozone nonattainment areas.

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 to be CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. Tips for Preparing Your Comments. When submitting comments, remember to:

- Identify the rulemaking by docket number and other identifying information (subject heading, **Federal Register** date and page number).
- Follow directions—The agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.
- Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.
- Describe any assumptions and provide any technical information and/or data that you used.
- If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.
- Provide specific examples to illustrate your concerns, and suggest alternatives.
- Explain your views as clearly as possible, avoiding the use of profanity or personal threats.
- Make sure to submit your comments by the comment period deadline identified.

C. Where can I get a copy of this document and other related information?

In addition to being available in the docket, an electronic copy of this document will be posted at *http://www.epa.gov/airquality/ozonepollution/actions.html#impl.*

D. What information should I know about a possible public hearing?

To request a public hearing or information pertaining to a public hearing on this document, contact Ms. Pamela Long at (919) 541–0641 before 5 p.m. on September 11, 2015. If requested, further details concerning a public hearing for this proposed rule will be published in a separate **Federal Register** document. For updates and additional information on a public hearing, please check the EPA's Web site for this rulemaking at *http://www.epa.gov/airquality/ozonepollution/actions.html#impl.*

E. How is this preamble organized?

The information presented in this preamble is organized as follows.

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V. Statutory and Executive Order Reviews
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- B. Paperwork Reduction Act (PRA)
- C. Regulatory Flexibility Act (RFA)
- D. Unfunded Mandates Reform Act (UMRA)
- 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 (NTTAA)
- J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

II. Overview and Basis of Proposal

A. Overview of Proposal

CAA section 181(b)(2) requires the EPA Administrator to determine, based on an area's design value (which represents air quality in the area for the most recent 3 year period) [2] as of an area's attainment deadline, whether an ozone nonattainment area attained the ozone standard by that date. The statute provides a mechanism by which states that meet certain criteria may request and be granted by the EPA Administrator a 1-year extension of an area's attainment deadline. The CAA also requires that areas that have not attained the standard by their attainment deadlines be reclassified to either the next ''highest'' classification (*e.g.,* Marginal to Moderate, Moderate to Serious, etc.) or to the classifications applicable to the areas' design values in Table 1 of 40 CFR 51.1103. In this document, the EPA proposes to find that 17 Marginal areas attained the 2008 NAAQS by the applicable deadline of July 20, 2015, based on complete, quality-assured and certified ozone monitoring data for 2012–2014.[3] The EPA also proposes to find that 8 Marginal areas meet the criteria, as provided in CAA section 181(a)(5) and interpreted by regulation at 40 CFR 51.1107, to qualify for a 1-year attainment date extension for the 2008 ozone NAAQS. Finally, the EPA proposes to find that 11 Marginal areas

[1] AR, AZ, CA, CO, CT, DE, GA, IL, IN, KY, LA, MA, MD, MO, MS, NC, NJ, NY, OH, PA, SC, TN, TX, VA, WI and WY.

[2] An area's design value for the 8-hour ozone NAAQS is the highest 3-year average of the annual fourth highest daily maximum 8-hour average ozone concentration of all monitors in the area. *See* 40 CFR part 50, appendix P.

[3] These proposed determinations of attainment do not constitute a redesignation to attainment. Redesignations require states to meet a number of additional criteria, including EPA approval of a state plan to maintain the air quality standard for 10 years after redesignation.

failed to attain the 2008 ozone NAAQS by the applicable Marginal attainment deadline of July 20, 2015, and do not qualify for a 1-year extension. Accordingly, as required by CAA section 181(b)(2)(A), if the EPA finalizes the determinations that these areas failed to attain, the EPA must reclassify those 11 Marginal areas to Moderate. The reclassified areas must attain the 2008 ozone NAAQS as expeditiously as practicable, but no later than July 20, 2018. Table 1 provides a summary of the EPA's proposed actions that would apply to these 36 Marginal areas.

The EPA is proposing in this document to apply the discretion granted to the Administrator in the statute to adjust the statutory deadlines for submitting required SIP revisions for reclassified Moderate ozone nonattainment areas in order to align the SIP due dates with the regulatory deadline for implementing reasonably available control measures (RACM), including reasonably available control technology (RACT), in such areas as necessary to attain the 2008 ozone standard by the Moderate area attainment deadline of July 20, 2018.

TABLE 1—2008 OZONE NAAQS MARGINAL NONATTAINMENT AREA EVALUATION SUMMARY

2008 NAAQS Nonattainment area	2012–2014 Design value (ppm)	Meets 2008 NAAQS by marginal attainment date	2014 4th Highest daily maximum 8-hr average (ppm)	Areas not attaining 2008 NAAQS eligible for attainment date extensions based on 2014 4th highest daily maximum 8-hr average ≤0.075 ppm
Allentown-Bethlehem-Easton, PA	0.070	Attaining	0.068	Not applicable.
Atlanta, GA	0.077	Not Attaining	0.079	No.
Baton Rouge, LA	0.072	Attaining	0.075	Not applicable.
Calaveras County, CA	0.071	Attaining	0.071	Not applicable.
Charlotte-Gastonia-Rock Hill, NC-SC.	0.073	Attaining	0.068	Not applicable.
Chicago-Naperville, IL-IN-WI	0.081	Not Attaining	0.076	No.
Chico (Butte County), CA	0.074	Attaining	0.074	Not applicable.
Cincinnati, OH-KY-IN	0.075	Attaining	0.071	Not applicable.
Cleveland-Akron-Lorain, OH	0.078	Not Attaining	0.075	Yes.
Columbus, OH	0.075	Attaining	0.070	Not applicable.
Denver-Boulder-Greeley-Fort Collins-Loveland, CO.	0.082	Not Attaining	0.077	No.
Dukes County, MA	0.068	Attaining	0.059	Not applicable.
Greater Connecticut, CT	0.080	Not Attaining	0.077	No.
Houston-Galveston-Brazoria, TX	0.080	Not Attaining	0.072	Yes.
Imperial County, CA	0.080	Not Attaining	0.078	No.
Jamestown, NY	0.071	Attaining	0.066	Not applicable.
Kern County (Eastern Kern), CA	0.084	Not Attaining	0.089	No.
Knoxville, TN	0.067	Attaining	0.064	Not applicable.
Lancaster, PA	0.071	Attaining	0.066	Not applicable.
Mariposa County, CA	0.078	Not Attaining	0.077	No.
Memphis, TN-MS-AR	0.073	Attaining	0.067	Not applicable.
Nevada County (Western part), CA	0.079	Not Attaining	0.082	No.
New York, N. New Jersey-Long Island, NY-NJ-CT.	0.085	Not Attaining	0.081	No.
Philadelphia-Wilmington-Atlantic City, PA-NJ-MD-DE.	0.077	Not Attaining	0.074	Yes.
Phoenix-Mesa, Arizona	0.080	Not Attaining	0.080	No.
Pittsburgh-Beaver Valley, PA	0.077	Not Attaining	0.071	Yes.
Reading, PA	0.071	Attaining	0.068	Not applicable.
San Diego County, CA	0.079	Not Attaining	0.079	No.
San Francisco Bay Area, CA	0.072	Attaining	0.076	Not applicable.
San Luis Obispo County (Eastern San Luis Obispo), CA.	0.076	Not Attaining	0.073	Yes.
Seaford, DE	0.074	Attaining	0.067	Not applicable.
Sheboygan, Wisconsin	0.081	Not Attaining	0.072	Yes.
St. Louis-St. Charles-Farmington, MO-IL.	0.078	Not Attaining	0.072	Yes.
Tuscan Buttes, CA	0.075	Attaining	0.076	Not applicable.
Upper Green River Basin, WY	0.064	Attaining	0.065	Not applicable.
Washington, DC-MD-VA	0.076	Not Attaining	0.069	Yes.

B. What is the background for the proposed actions?

On March 12, 2008, the EPA issued its final action to revise the NAAQS for ozone to establish new 8-hour standards (73 FR 16436, March 27, 2008). In that action, we promulgated identical revised primary and secondary ozone standards, designed to protect public health and welfare, that specified an 8-hour ozone standard of 0.075 parts per million (ppm).[4] Specifically, the standards require that the 3-year average of the annual fourth highest daily maximum 8-hour average ozone concentration may not exceed 0.075 ppm. The 2008 ozone NAAQS retains the same general form and averaging time as the 0.08 ppm NAAQS set in 1997 but is set at a level that is more protective of public health and the environment.

On April 30, 2012 (May 31, 2012), the EPA issued rules designating 46 areas throughout the country as nonattainment for the 2008 ozone

[4] Since the 2008 primary and secondary NAAQS for ozone are identical, for convenience, we refer to both as ''the 2008 ozone NAAQS'' or ''the 2008 ozone standard.''

NAAQS, effective July 20, 2012 (77 FR 30088, May 21, 2012 and 77 FR 34221, June 11, 2012). In April 30, 2012, action, the EPA established classifications for the designated nonattainment areas, and classified 36 of those areas as Marginal. We used primarily certified air quality monitoring data from calendar years 2008–2010 [5] to designate these areas as nonattainment, and as the basis for their classification (77 FR 30088 and 77 FR 34221). Also in the April 30, 2012, action, the EPA promulgated a Classifications Rule that specified some of the requirements for implementing the 2008 ozone NAAQS under the provisions of Subpart 2 of part D of title I of the CAA to the newly designated nonattainment areas for the 2008 ozone standard (77 FR 30160, May 21, 2012). CAA Section 181 provides that the attainment deadline for ozone nonattainment areas is ''as expeditiously as practicable'' but no later than the prescribed dates that are provided in Table 1 of that section. In the 2008 ozone NAAQS Classifications Rule, the EPA translated the ''maximum'' deadlines in Table 1 of Subpart 2 for purposes of the 2008 standard by measuring those deadlines from the effective date of the new designations, but extended those deadlines by several months to December 31 of the corresponding calendar year (77 FR 30166).

Pursuant to a challenge of the EPA's interpretation of the attainment deadlines, on December 23, 2014, the D.C. Circuit issued a decision rejecting, among other things, the Classifications Rule's attainment deadlines for the 2008 ozone nonattainment areas, finding that the EPA did not have statutory authority under the CAA to extend those deadlines to the end of the calendar year. *NRDC* v. *EPA,* 777 F.3d 456, 464–69 (D.C. Cir. 2014). Accordingly, as part of the final 2008 ozone NAAQS SIP Requirements Rule (80 FR 12264, March 6, 2015), the EPA modified the maximum attainment dates for all nonattainment areas for the 2008 ozone NAAQS, consistent with the court's decision. As relevant here, the SIP Requirements Rule established a maximum deadline for Marginal nonattainment areas of 3 years from the effective date of designation, or July 20, 2015, to attain the 2008 ozone NAAQS. *See* 80 FR at 12268; 40 CFR 51.1103.

[5] In certain cases, states included as part of their designation recommendations a request that the EPA consider more up-to-date monitoring data from 2009–2011 in making final designation decisions. The EPA considered the state requests, and, accordingly, adjusted some of the classifications based on the more recent data.

C. What is the statutory authority for the proposed actions?

The statutory authority for the actions proposed in this document is provided by the CAA, as amended (42 U.S.C. 7401 *et seq.*). Relevant portions of the CAA include, but are not necessarily limited to, sections 181(a)(5) and 181(b)(2).

By way of background, CAA section 107(d) provides that when the EPA establishes or revises a NAAQS, the agency must designate areas of the country as nonattainment, attainment, or unclassifiable based on whether they are not meeting (or contributing to air quality in a nearby area that is not meeting) the NAAQS, meeting the NAAQS, or cannot be classified as meeting or not meeting the NAAQS, respectively. Subpart 2 of part D of title I of the CAA governs the classification, state planning and emissions control requirements for any areas designated as nonattainment for a revised primary ozone NAAQS. In particular, CAA section 181(a)(1) requires each area designated as nonattainment for a revised ozone NAAQS to be ''classified'' at the same time as the area is designated based on the severity of the ozone level in the area (as determined based on the area's ''design value,'' which represents air quality in the area for the most recent 3 years). *See* footnote 2. Classifications for ozone nonattainment areas range from ''Marginal'' (for areas with monitored ozone levels just exceeding the level of the NAAQS) to ''Extreme'' (for areas with monitored ozone levels well above the levels of the NAAQS). CAA section 182 stipulates the specific attainment planning and additional requirements that apply to each ozone nonattainment area based on its classification. CAA section 182, as interpreted by the EPA's implementation regulations at 40 CFR 51.1108–1117, also establishes the timeframes by which air agencies must submit SIP revisions to address the applicable attainment planning elements, and the timeframes by which ozone nonattainment areas must attain the relevant NAAQS.

Section 181(b)(2)(A) of the CAA requires that within 6 months following the applicable attainment date, the Administrator will determine whether an ozone nonattainment area attained the ozone standard based on the area's design value as of that date. Section 181(a)(5) of the CAA gives the Administrator the discretion to grant a 1-year extension of the attainment date specified in CAA section 181(a) upon application by any state if: (i) The state has complied with all requirements and commitments pertaining to the area in the applicable implementation plan; and (ii) no more than one measured exceedance of the NAAQS for ozone has occurred in the area preceding the extension year. The EPA may grant a second 1-year extension if these same criteria are met by the end of the first extension year.[6]

Because CAA section 181(a)(5)(B) was written for an exceedance-based standard, such as the 1-hour ozone NAAQS, the EPA has interpreted through notice-and-comment rulemaking the air quality requirement of the extension criteria for purposes of a concentration-based standard like the 2008 8-hour ozone NAAQS. For purposes of determining an area's eligibility for an attainment date extension for the 2008 ozone NAAQS, the EPA has interpreted the criteria of CAA section 181(a)(5)(B) to mean that an area's fourth highest daily maximum 8-hour value for the attainment year [7] is at or below the level of the standard [80 FR 12264, 12292 (March 6, 2015); 40 CFR 51.1107].

In the event an area fails to attain the relevant ozone NAAQS by the applicable attainment date, CAA section 181(b)(2)(A) requires the Administrator to make the determination that an ozone nonattainment area failed to attain the ozone standard by the applicable attainment date, and subsequently requires the area to be reclassified by operation of law to the higher of (i) the next higher classification for the area, or (ii) the classification applicable to the area's design value as determined at the time of the required **Federal Register** document.[8] Section 181(b)(2)(B) requires the EPA to publish a document in the **Federal Register** identifying the reclassification status of an area that has failed to attain the standard by its attainment date no later than 6 months after the attainment date, which in the case of the Marginal nonattainment areas addressed in this document would be January 20, 2016.

Once an area is reclassified, the EPA must address the schedule by which the state is required to submit a revised SIP for that area to, among other things, demonstrate how the area will attain the relevant NAAQS as expeditiously as practicable but no later than the new

[6] The EPA considers the average of the annual fourth-highest daily maximum 8-hour ozone concentrations for 2 years at each monitoring site in an area.

[7] *See* 40 CFR 51.1107(a)(1).

[8] All of the affected nonattainment areas addressed in this document would be classified to the next highest classification of Moderate. None of the affected areas has a design value that would otherwise place it in a higher classification (*e.g.,* Serious) under CAA section 181(b)(2)(A)(ii).

applicable attainment date under the statute. According to CAA section 182(i), a state with a reclassified ozone nonattainment area must submit the applicable attainment plan requirements ''according to the schedules prescribed in connection with such requirements'' in CAA section 182(b) for Moderate areas, section 182(c) for Serious areas, and section 182(d) for Severe areas. However, the Act permits the Administrator to adjust the statutory due dates that would otherwise apply for any SIP revisions required as a result of the reclassification ''to the extent that such adjustment is necessary or appropriate to assure consistency among the required submissions.''

D. How does the EPA determine whether an area has attained the 2008 ozone standard?

Under EPA regulations at 40 CFR part 50, appendix P, the 2008 ozone NAAQS is attained at a site when the 3-year average of the annual fourth highest daily maximum 8-hour average ambient air quality ozone concentration is less than or equal to 0.075 ppm. This 3-year average is referred to as the design value. When the design value is less than or equal to 0.075 ppm at each ambient air quality monitoring site within the area, then the area is deemed to be meeting the NAAQS. The rounding convention under 40 CFR part 50, appendix P, dictates that concentrations shall be reported in ppm to the third decimal place, with additional digits to the right being truncated. Thus, a computed 3-year average ozone concentration of 0.076 ppm is greater than 0.075 ppm and, therefore, over the standard.

The EPA's determination of attainment is based upon data that have been collected and quality-assured in accordance with 40 CFR part 58 and recorded in the EPA's Air Quality System database (formerly known as the Aerometric Information Retrieval System). Ambient air quality monitoring data for the 3-year period must meet a data completeness requirement. The ambient air quality monitoring data completeness requirement is met when the average percent of required monitoring days with valid ambient monitoring data is greater than 90 percent, and no single year has less than 75 percent data completeness as determined according to Appendix P of part 50.

III. What is the EPA proposing and what is the rationale?

The EPA is issuing this proposal pursuant to the agency's statutory obligation under CAA section 181(b)(2) to determine whether the 36 Marginal ozone nonattainment areas have attained the 2008 ozone NAAQS by the applicable attainment date of July 20, 2015. The separate actions being taken in this proposal, as well as the rationale for these actions, are described in the sections below.

A. Determinations of Attainment

The EPA evaluated data from air quality monitors in the 36 Marginal nonattainment areas for the 2008 ozone NAAQS in order to determine the areas' attainment status as of the applicable attainment date of July 20, 2015. The data were supplied and quality assured by state and local agencies responsible for monitoring ozone air monitoring networks. Seventeen of the 36 nonattainment areas' monitoring sites with valid data had a design value equal to or less than 0.075 ppm based on the 2012–2014 monitoring period. Thus, the EPA proposes to determine, in accordance with section 181(b)(2)(A) of the CAA and the provisions of the SIP Requirements Rule (40 CFR 51.1103), that these 17 areas (listed in Table 2 below) attained the standard by the applicable attainment date for Marginal nonattainment areas for the 2008 ozone NAAQS. The EPA's determination is based upon 3 years of complete, quality-assured and certified data. Table 2 displays the 2012–2014 design value for these 17 areas. The fourth high values for each of the 3 years used to calculate each monitor's 2012–2014 design value are provided in the technical support document (TSD) in the docket for this action.[9] The EPA is soliciting comments on these proposed determinations of attainment by the applicable attainment date.

TABLE 2—MARGINAL NONATTAINMENT AREAS THAT ATTAINED THE 2008 OZONE NAAQS BY THE JULY 20, 2015, ATTAINMENT DATE

2008 Ozone NAAQS nonattainment area	2012–2014 Design value (ppm)
Allentown-Bethlehem-Easton, PA	0.070
Baton Rouge, LA	0.072
Calaveras County, CA	0.071
Charlotte-Rock Hill, NC-SC [a]	0.073
Chico (Butte County), CA	0.074
Cincinnati, OH-KY-IN	0.075
Columbus, OH	0.075
Dukes County, MA	0.068
Jamestown, NY	0.071
Knoxville, TN [b]	0.067
Lancaster, PA	0.071
Memphis, TN-MS-AR	0.073
Reading, PA	0.071
San Francisco Bay Area, CA	0.072
Seaford, DE	0.074
Tuscan Buttes, CA	0.075
Upper Green River Basin, WY	0.064

[a] On July 28, 2015, the EPA redesignated to attainment the North Carolina portion of the Charlotte-Rock Hill, NC–SC, nonattainment area for the 2008 8-hour ozone NAAQS, effective August 27, 2015. *See* 80 FR 44873. Given that this area was still designated nonattainment as of July 20, 2015, the EPA is herein proposing to determine that this area attained the 2008 ozone NAAQS by the applicable attainment date in order to satisfy the agency's obligation under CAA section 181(b)(2)(A) to make determinations of attainment for nonattainment areas within 6 months following an area's applicable attainment date.

[b] On July 13, 2015, the EPA redesignated to attainment the Knoxville, TN, nonattainment area for the 2008 8-hour ozone NAAQS, effective August 12, 2015. *See* 80 FR 39970. Given that this area was still designated nonattainment as of July 20, 2015, the EPA is herein proposing to determine that this area attained the 2008 ozone NAAQS by the applicable attainment date in order to satisfy the agency's obligation under CAA section 181(b)(2)(A) to make determinations of attainment for nonattainment areas within 6 months following an area's applicable attainment date.

B. Extension of Marginal Area Attainment Dates

Of the 36 Marginal nonattainment areas for the 2008 ozone NAAQS, there are eight areas for which the EPA is proposing to grant a 1-year attainment date extension based on determinations that these areas have met the requirements for an extension under CAA section 181(a)(5).

Specifically, for each of the eight nonattainment areas, the EPA received a letter from a state air agency requesting a 1-year extension of the area's attainment date and certifying that the state is in compliance with the applicable implementation plan, as required under CAA section 181(a)(5)(A). In their requests, the states certified that they have complied with all requirements and commitments pertaining to their respective nonattainment areas in the applicable implementation plan and that all monitors in the area have a fourth highest daily maximum 8-hour average

[9] ''*Technical Support Document Regarding Ozone Monitoring Data—Determinations of Attainment, 1-Year Attainment Date Extensions, and Reclassifications for Marginal Areas under the 2008 8-Hour Ozone National Ambient Air Quality Standard (NAAQS),* EPA–HQ–OAR–2015–0468.

of 0.075 ppm or less for 2014 (*i.e.,* the last full year of air quality data prior to the July 20, 2015, attainment date). A summary of the information in these letters is provided in the TSD for this action. The EPA evaluated the information submitted by each state for its nonattainment area(s) and is proposing determinations that each state has met the requirement of CAA section 181(a)(5)(A) for each applicable area.[10]

The EPA has also evaluated the certified air quality monitoring data for 2014 and is proposing to determine that each of the eight areas listed in Table 3 meets the air quality requirements of CAA section 181(a)(5)(B) and the EPA's interpretation of that statutory provision in 40 CFR 51.1107. As explained in Section II.C of this preamble, the EPA has interpreted the air quality criterion in CAA section 181(a)(5)(B) for purposes of the 2008 8-hour standard to mean that an eligible area's fourth highest daily maximum 8-hour average in the year preceding the attainment date is equal to or below the NAAQS (80 FR 12292). The EPA has evaluated the data for these eight areas and has determined that the fourth highest daily maximum 8-hour average for each area in 2014 is equal to or below 0.075 ppm. Table 3 provides the fourth highest daily maximum 8-hour averages for 2014 for each of the eight Marginal nonattainment areas for which a state has requested an attainment date extension.

Based on the EPA's evaluation and determination that eight Marginal nonattainment areas for the 2008 ozone NAAQS that failed to attain the NAAQS by July 20, 2015, have met the attainment date extension criteria of CAA section 181(a)(5), the EPA is exercising its discretion to propose granting a 1-year extension of the applicable Marginal area attainment date to July 20, 2016, from July 20, 2015, for the nonattainment areas listed in Table 3. If this proposal is finalized, then the nonattainment areas would remain classified as Marginal for the 2008 ozone NAAQS unless and until the EPA makes a determination that the areas have not attained the NAAQS by the July 20, 2016, attainment date. The EPA is soliciting comments on this proposal.

TABLE 3—MARGINAL NONATTAINMENT AREAS THAT QUALIFY FOR A 1-YEAR ATTAINMENT DATE EXTENSION FOR THE 2008 OZONE NAAQS [a]

2008 Ozone NAAQS nonattainment area	2012–2014 Design value (ppm)	2014 4th Highest daily maximum 8-hr average (ppm)
Cleveland-Akron-Lorain, OH	0.078	0.075
Houston-Galveston-Brazoria, TX	0.080	0.072
Philadelphia-Wilmington-Atlantic City, PA-NJ-MD-DE	0.077	0.074
Pittsburgh-Beaver Valley, PA	0.077	0.071
San Luis Obispo County (Eastern part), CA	0.076	0.073
Sheboygan, WI	0.081	0.072
St. Louis-St. Charles-Farmington, MO-IL	0.078	0.072
Washington, DC-MD-VA	0.076	0.069

[a] The areas listed are Marginal nonattainment areas that did not attain the 2008 ozone standard by July 20, 2015, but qualify for an extended attainment date to July 20, 2016, under CAA section 181(a)(5).

C. Determinations of Failure To Attain and Reclassification

The EPA is proposing to determine that 11 Marginal nonattainment areas (listed in Table 4) have failed to attain the 2008 ozone NAAQS by the applicable attainment date of July 20, 2015. These areas are not eligible for a 1-year attainment date extension because the fourth highest daily maximum 8-hour average for at least one monitor in each area is greater than 0.075 ppm for 2014 (*i.e.,* last full year of air quality data prior to the July 20, 2015, attainment date). Each of these areas failed to attain because the 2012–2014 design value for at least one monitor in each area exceeded the 2008 ozone NAAQS of 0.075 ppm. The TSD for this action shows all monitoring data for the relevant years for each of these nonattainment areas, as well as the 3-year design value calculations for each area.

CAA section 181(b)(2)(A) provides that a Marginal nonattainment area shall be reclassified by operation of law upon a determination by the EPA that such area failed to attain the relevant NAAQS by the applicable attainment date. Based on quality-assured ozone monitoring data from 2012–2014, as provided in the TSD for this proposal, the new classification applicable to each of these 11 areas would be the next higher classification of ''Moderate'' under the CAA statutory scheme.[11]

Moderate nonattainment areas are required to attain the standard ''as expeditiously as practicable'' but no later than 6 years after the initial designation as nonattainment (which, in the case of these 11 areas, is July 20, 2018). The attainment deadlines associated with each classification are prescribed by the Act and codified at 40 CFR 51.1103.

We also note that the states with areas that attain the 2008 ozone NAAQS after they are reclassified to Moderate can use the EPA's existing Clean Data Policy. The state with areas attaining the NAAQS could also submit a complete redesignation request with a maintenance plan to the EPA prior to the SIP revision deadline that uses the EPA's redesignation guidance.[12]

There are a number of significant emission reduction programs that will lead to reductions of ozone precursors, and that are in place today or are expected to be in place by 2017 to meet the July 20, 2018 attainment date for the 2008 ozone NAAQS Moderate areas. Examples of such rules include state

[10] The EPA notes that while Delaware did not submit a letter requesting a 1-year attainment date extension for the multi-state Philadelphia nonattainment area, based on extension requests from the other states with jurisdiction over that area, including Pennsylvania, New Jersey, and Maryland, and the EPA's own analysis of the CAA section 181(a)(5)(A) criteria with regard to Delaware, the EPA is exercising its discretion to propose granting the Philadelphia area a 1-year extension of the attainment date.

[11] The 2012–2014 design value for each of the 11 areas does not exceed 0.100 ppm, which is the threshold for reclassifying an area to Serious per CAA section 181(b)(2)(A)(ii) and 40 CFR 51.1103.

[12] Details on the EPA's existing Clean Data Policy and redesignation guidance are available at *http://www.epa.gov/air/urbanair/sipstatus/policy.html.*

and federal implementation plans adopted under the Cross-State Air Pollution Rule (CSAPR), the regional haze rule and the Best Available Retrofit Technology (BART) requirements, as well as regulations controlling on-road and non-road engines and fuels, Tier 3 motor vehicle emission and fuel standards program,[13] hazardous air pollutant rules for utility and industrial boilers, and various other programs already adopted by states to reduce emissions from key emissions sources. Further, states and the EPA are currently evaluating interstate transport obligations addressing CAA 110(a)(2)(D)(i)(I) requirements for this NAAQS, and the state or federal plans that are adopted to satisfy these obligations will provide a level of additional emission reductions from upwind states that will further assist each nonattainment area in attaining the ozone NAAQS by the Moderate attainment area deadline.

TABLE 4—MARGINAL NONATTAINMENT AREAS THAT WILL BE RECLASSIFIED AS MODERATE BECAUSE THEY DID NOT ATTAIN THE 2008 OZONE NAAQS BY THE JULY 20, 2015, ATTAINMENT DATE

2008 Ozone NAAQS nonattainment area	2012–2014 Design value (ppm)	2014 4th highest daily maximum 8-hr average (ppm)
Atlanta, GA	0.077	0.079
Chicago-Naperville, IL-IN-WI	0.081	0.076
Denver-Boulder-Greeley-Fort Collins-Loveland, CO	0.082	0.077
Greater Connecticut, CT	0.080	0.077
Imperial County, CA	0.080	0.078
Kern County (Eastern Kern), CA	0.084	0.089
Mariposa County, CA	0.078	0.077
Nevada County (Western part), CA	0.079	0.082
New York-N. New Jersey-Long Island, NY-NJ-CT	0.085	0.081
Phoenix-Mesa, AZ	0.080	0.080
San Diego County, CA	0.079	0.079

D. Moderate Area SIP Revision Submission Deadline

For each new Moderate ozone nonattainment area, the states responsible for managing air quality in the 11 areas identified in Table 4 will be required to submit a revised SIP that addresses the CAA's Moderate nonattainment area requirements, as interpreted and described in the final SIP Requirements Rule for the 2008 ozone NAAQS. *See* 40 CFR 51.1100 *et seq.* Those requirements include: (1) an attainment demonstration (CAA section 182(b) and 40 CFR 51.1108); (2) provisions for RACT (CAA section 182(b)(2) and 40 CFR 51.1112(a)–(b)) and RACM (CAA section 172(c)(1) and 40 CFR 51.1112(c)); (3) reasonable further progress (RFP) reductions in VOC and/or NO_X emissions in the area (CAA sections 172(c)(2) and 182(b)(1) and 40 CFR 51.1110); (4) contingency measures to be implemented in the event of failure to meet a milestone or to attain the standard (CAA section 172(c)(9)); (5) a vehicle inspection and maintenance program, if applicable (CAA section 181(b)(4) and 40 CFR 51.350); and, (6) NO_X and VOC emission offsets at a ratio of 1.15 to 1 for major source permits (CAA section 182(b)(5) and 40 CFR 51.165(a)). *See also* the requirements for Moderate ozone nonattainment areas set forth in CAA section 182(b) and the general nonattainment plan provisions required under CAA section 172(c).[14]

As noted elsewhere in this preamble, when an area is reclassified under CAA section 181(b)(2), CAA section 182(i) directs that the state shall meet the new requirements according to the schedules prescribed in those requirements. It provides, however, ''that the Administrator may adjust any applicable deadlines (other than attainment dates) to the extent such adjustment is necessary or appropriate to assure consistency among the required submissions.'' CAA section 182(b), as interpreted by 40 CFR 51.1100 *et seq.,* describes the required SIP revisions and associated deadlines for a nonattainment area classified as Moderate at the time of the initial designations. However, these SIP submission deadlines (*e.g.,* 3 years after the effective date of designation for submission of an attainment plan and attainment demonstration) have already passed. Accordingly, the EPA is proposing to exercise its discretion under CAA section 182(i) to adjust the SIP submittal deadlines for these 11 new Moderate nonattainment areas.

In determining an appropriate deadline for the Moderate area SIP revisions for these 11 areas, the EPA notes that pursuant to 40 CFR 51.1108(d), for each nonattainment area, the state must provide for implementation of all control measures needed for attainment no later than the beginning of the attainment year ozone season. The attainment year ozone season is the ozone season immediately preceding a nonattainment area's attainment date. In the case of nonattainment areas classified as Moderate for the 2008 ozone NAAQS, the attainment year ozone season is the 2017 ozone season (40 CFR 51.1100(g)). The ozone season is the ozone monitoring season as defined in 40 CFR part 58, appendix D, section 4.1, Table D–3 (October 17, 2006, 71 FR 61236). We note that the EPA has proposed changes to the ozone monitoring season in its most recent proposal to revise the ozone NAAQS (79 FR 75234, December 17, 2014). For the purposes of reclassification for the 11 Marginal nonattainment areas identified in this proposal, Table 5 provides the starting month of the ozone monitoring season for each state with one of the 11 Marginal areas as currently codified in the EPA's regulations. Table 5 also includes the December 17, 2014, proposed changes, if any, to the beginning of the ozone monitoring season in such states. If the proposed changes to the beginning of the ozone

[13] 79 FR 23414 (April 29, 2014). Control of Air Pollution From Motor Vehicles: Tier 3 Motor Vehicle Emission and Fuel Standards.

[14] All 11 of the areas reclassified to Moderate except Denver-Boulder-Greeley-Fort Collins-Loveland, CO have been classified Moderate or higher classification for a prior ozone NAAQS.

monitoring seasons are included in the final ozone NAAQS revision (expected by October 1, 2015), and that rulemaking is finalized before the EPA finalizes this action, the revised ozone season dates would also apply to our adjusted deadlines for the Moderate area SIP revisions for the areas we propose to reclassify in this document. We also note that we believe it is reasonable to provide states with a period of at least approximately 1 year after the reclassification is finalized to develop and submit the Moderate area SIP revisions. This provides time necessary for states and local air districts to finish their review of available control measures, adopt necessary attainment strategies, address other SIP requirements, and complete the public notice process necessary to adopt and submit SIP revisions.

Therefore, the EPA is proposing and taking comment on two options for setting the date by which states with jurisdiction for these 11 reclassified nonattainment areas would be required to submit for EPA review and approval SIP revisions to address Moderate area requirements. The first option, which is reflected in Table 5 below, would require that states submit the required SIP revisions as expeditiously as practicable, but no later than the beginning of the ozone season in 2017 for each state. This proposed option would align the SIP submittal deadline with the deadline for implementing applicable controls, which, as noted above, is also no later than the beginning of the ozone season in 2017 for each area. This option would give 9 states additional time that may be needed to accomplish planning, administrative and SIP revision processes. This option would treat states consistently in that they would need to have submitted SIP revisions by the beginning of their respective ozone seasons, but it would result in SIP submittal dates that vary among the states. In addition, as noted above, if the EPA finalizes the proposed changes to the start dates of the ozone season in a number of states, the proposed deadlines for SIP revisions in this rulemaking would also change accordingly. Under this first option, in multi-state nonattainment areas, such as the Chicago-Naperville area, where the three affected states do not have the same ozone season start date, the deadline for the entire nonattainment area would be the earliest ozone season start date for any of the states (*e.g.,* April 1, 2017, for the Chicago area).

TABLE 5—BEGINNING OF OZONE SEASON FOR STATES WITH AREAS IDENTIFIED FOR RECLASSIFICATION TO MODERATE FOR THE 2008 OZONE NAAQS

2008 Moderate ozone areas	State	Current month or date ozone season begins [a]	Proposed deadline for moderate area SIP submittal	Proposed month or date ozone season begins [b]
Atlanta, GA	Georgia	March	1-Mar-17	No change.
Chicago-Naperville, IL-IN-WI.	Illinois	April	1-Apr-17	March.
Chicago-Naperville, IL-IN-WI.	Indiana	April	1-Apr-17	March.
Chicago-Naperville, IL-IN-WI.	Wisconsin	15-Apr	15-Apr-17	15-Mar.
Denver-Boulder-Greeley-Fort Collins-Loveland, CO.	Colorado	March	1-Mar-17	January.
Greater Connecticut, CT	Connecticut	April	1-Apr-17	March.
Imperial County, CA	California	January	1-Jan-17	No change.
Kern County (Eastern Kern), CA.	California	January	1-Jan-17	No change.
Mariposa County, CA	California	January	1-Jan-17	No change.
Nevada County (Western part), CA.	California	January	1-Jan-17	No change.
New York-N. New Jersey-Long Island, NY-NJ-CT.	New Jersey	April	1-Apr-17	March.
New York-N. New Jersey-Long Island, NY-NJ-CT.	New York	April	1-Apr-17	March.
New York-N. New Jersey-Long Island, NY-NJ-CT.	Connecticut	April	1-Apr-17	March.
Phoenix-Mesa, AZ	Arizona	January	1-Jan-17	No change.
San Diego County, CA	California	January	1-Jan-17	No change.

[a] Table D–3 of Appendix D to Part 58—Ozone Monitoring Season by State. First day of beginning month except for WI.
[b] Beginning of ozone season proposed in the ozone NAAQS revision proposal (79 FR 75234, December 17, 2014).

Under the second option, the EPA proposes that the deadline for the required SIP revisions for areas that would be reclassified under this rulemaking would be as expeditiously as practicable, but no later than January 1, 2017. By establishing a single specific submittal date, this option would establish a consistent deadline for all 11 areas, similar to the single uniform SIP submission deadline that would have applied to all areas if they had been initially classified as Moderate. A uniform deadline of January 1, 2017, is reasonable because it would provide all states with approximately 1 year after these reclassifications are finalized to develop complete SIP submissions, and it is the latest SIP submittal date that would be compatible with ensuring controls are in place no later than the start of the attainment year ozone season for all of the 11 reclassified areas.

The EPA solicits comments on both of these proposed options for deadlines to submit the required SIP revisions that would apply to states after any current Marginal nonattainment area for the 2008 ozone NAAQS is reclassified to Moderate.

With regard to the New York-N. New Jersey-Long Island (NY–NJ–CT) nonattainment area, the EPA notes that in addition to the actions related to the 2008 ozone standard addressed in this

proposed rulemaking, on May 15, 2014, the agency proposed to rescind the clean data determination (CDD) for that nonattainment area under the 1997 8-hour ozone standard because the EPA determined that the area was no longer attaining the 1997 ozone NAAQS (79 FR 27830, ''May 2014 proposal document''). The CDD, issued by the EPA in June 2012, suspended the three states' obligations to meet attainment-related planning requirements for that standard, including submitting attainment demonstrations, RACM, RFP plans, and contingency measures. In the May 2014 proposal document, the EPA proposed to find that the New Jersey, New York, and Connecticut's SIPs were substantially inadequate to demonstrate attainment of the 1997 ozone NAAQS, and the agency proposed to issue a SIP Call under the authority of CAA section 110(k)(5) requiring the states to submit revised SIPs within 18 months to demonstrate how the New York-N. New Jersey-Long Island nonattainment area would re-attain the 1997 standard as expeditiously as practicable.

One option proposed by the EPA in the May 2014 proposal document would permit the relevant states to respond to the final SIP Call by requesting to be reclassified to Moderate for the 2008 ozone standard (*see* CAA section 181(b)(3)), which would consequently require that the states submit SIPs demonstrating how they would attain the more stringent 2008 standard as expeditiously as practicable. We proposed that this alternative response of submitting an attainment plan for the 2008 ozone standard would satisfy a final SIP Call on the 1997 ozone standard because an approvable plan would demonstrate compliance with a more stringent NAAQS.

The public comment period for the May 2014 proposal document closed on June 16, 2014, and the EPA is reviewing comments received on the proposal. However, given that this action proposes to find that the New York-N. New Jersey-Long Island nonattainment area has failed to attain the 2008 ozone standard by its Marginal attainment date of July 20, 2015, and must be reclassified to Moderate by operation of law in accordance with CAA section 181(b)(2)(A), this proposed action would effectively eliminate the need for the three affected states to request reclassification for the area under the option described in the May 2014 proposal document. Although we are not taking final action in this document on the proposed CDD rescission and SIP Call (79 FR 27830), the actions which may occur pursuant to this proposal (*i.e.,* a final finding of failure to attain the 2008 standard by the applicable attainment date, reclassification of the area as Moderate, and a state submittal of a Moderate area attainment demonstration) would, thus, also serve to satisfy a final SIP Call under CAA section 110(k)(5). We also note that either of the 2008 ozone attainment plan due dates proposed in this document would meet the statutory timeframe for the SIP revision due subsequent to a SIP Call for the 1997 ozone NAAQS for the area.

E. Summary of Proposed Actions

The actions proposed in this document affect the 36 nonattainment areas for the 2008 ozone NAAQS that were initially designated and classified Marginal effective July 20, 2012, based on their individual design values. The design value of an area is represented by the annual fourth-highest daily maximum 8-hour average ozone concentration measured at each monitor in the area, averaged over a consecutive 3-year period. According to CAA section 181(a)(1), as interpreted by EPA regulations at 40 CFR 51.1103, nonattainment Marginal areas are required to attain the standard ''as expeditiously as practicable'' but no later than 3 years after the designation effective date of July 20, 2012 (*i.e.,* no later than July 20, 2015). CAA section 181(b)(2)(A) requires that within six months of the attainment date, which, in the case of the Marginal areas that are the subject of this document, was July 20, 2015, the EPA must determine, based on the ozone nonattainment area's design value as of the attainment date, whether the area attained the ozone standard by that date. A Marginal nonattainment area has attained the 2008 ozone NAAQS by the attainment date if its design value is equal to or less than 0.075 ppm based on data from the period 2012–2014. If the EPA determines that an area has failed to attain by its attainment date, CAA section 181(b)(2) requires that those areas be reclassified to the higher of (i) the next highest classification, or (ii) the classification that corresponds with the area's design value as of the time that the EPA publishes the document identifying the areas that have failed to attain by their attainment date. Accordingly, the EPA is proposing that the following 11 Marginal nonattainment areas failed to attain the 2008 ozone NAAQS by July 20, 2015, and must be reclassified as Moderate: Atlanta, GA; Chicago-Naperville, IL-IN-WI; Denver-Boulder-Greeley-Fort Collins-Loveland, CO; Greater Connecticut, CT; Imperial County, CA; Kern County (Eastern Kern), CA; Mariposa County, CA; Nevada County (Western part), CA; New York-N. New Jersey-Long Island, NY-NJ-CT; Phoenix-Mesa, AZ; and, San Diego County, CA. For these 11 areas, the EPA is further proposing that the responsible states must submit SIP revisions to fulfill the CAA's Moderate area requirements by one of the following two alternative deadlines: Option 1—as expeditiously as practicable but not later than the start of each nonattainment area's 2017 ozone season; Option 2—as expeditiously as practicable but not later than January 1, 2017. The EPA is taking comment on the determinations of failure to attain and subsequent reclassifications of each of these 11 nonattainment areas from Marginal to Moderate, and on an appropriate deadline for responsible states to submit SIP revisions to fulfill Moderate area requirements for these areas.

Upon application by any state, the Administrator may extend the 2008 ozone attainment date by 1 year, in accordance with CAA section 181(a)(5) and 40 CFR 51.1107, provided that the state has complied with all requirements and commitments pertaining to the area in the applicable implementation plan, and the area's fourth highest daily maximum 8-hour average value for the last full year of air quality data prior to the July 20, 2015, attainment date (*i.e.,* 2014) is at or below 0.075 ppm. Based on state requests and a review of 2014 ozone air quality data, the EPA is proposing to grant 1-year extensions of the attainment date to July 20, 2016 (from July 20, 2015) for the following eight Marginal nonattainment areas: Cleveland-Akron-Lorain, OH; Houston-Galveston-Brazoria, TX; Philadelphia-Wilmington-Atlantic City, PA-NJ-MD-DE; Pittsburgh-Beaver Valley, PA; San Luis Obispo County (Eastern part), CA; Sheboygan, WI; St. Louis-St. Charles-Farmington, MO-IL; and, Washington, DC-MD-VA. The EPA is taking comment on the 1-year attainment date extensions for each of these eight areas.

For the 17 remaining 2008 ozone NAAQS nonattainment areas currently classified as Marginal, the EPA is proposing to determine that each area has ozone design values for the 2012–14 period at or below 0.075 ppm, and, thus, each area has attained the NAAQS by the attainment date of July 20, 2015. The 17 areas are: Allentown-Bethlehem-Easton, PA; Baton Rouge, LA; Calaveras County, CA; Charlotte-Gastonia-Rock Hill, NC-SC; Chico (Butte County), CA; Cincinnati, OH-KY-IN; Columbus, OH; Dukes County, MA; Jamestown, NY; Knoxville, TN; Lancaster, PA; Memphis, TN-MS-AR; Reading, PA; San Francisco

Bay Area, CA; Seaford, DE; Tuscan Buttes, CA; and, Upper Green River Basin, WY. The EPA is taking comment on the determinations of attainment by the applicable attainment date for these 17 areas.

IV. Environmental Justice Considerations

The CAA requires that states with areas designated as nonattainment submit to the Administrator the appropriate SIP revisions and implement specified control measures by certain dates applicable to the area's classification. By requiring additional planning and implementation requirements for the 11 nonattainment areas proposed to be reclassified from Marginal to Moderate, the part of this action reclassifying the areas from Marginal to Moderate will protect all those residing, working, attending school, or otherwise present in those areas regardless of minority or economic status.

V. 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)

The information collection activities associated with this proposed rule were submitted for approval to the OMB under the PRA as part of the information collection assessment for the 2008 ozone NAAQS SIP Requirements Rule. The Information Collection Request (ICR) document prepared by the EPA has been assigned the EPA ICR number 2347.01. You can find a copy of the ICR in the docket for the 2008 ozone NAAQS SIP Requirements Rule [15] (EPA–HQ–OAR–2010–0885), and in the docket for this rule (EPA–HQ–OAR–2015–0468). The ICR is briefly summarized here.

The EPA issued the 2008 ozone NAAQS SIP Requirements Rule to provide states with assistance in interpreting how CAA requirements apply to their nonattainment areas when the states develop their SIPs for attaining and maintaining the 2008 ozone NAAQS. The intended effect of the SIP Requirements Rule—in conjunction with other rules that address additional aspects of implementation, such as this proposed action—is to provide assistance to states regarding their planning obligations such that states may begin SIP development. In preparing its analysis of the estimated paperwork burden associated with the SIP Requirements Rule and additional rules providing clarity on implementation of the 2008 ozone NAAQS, the EPA calculated that burden for the 46 areas designated non-attainment under that standard.[16] [17] The estimate in the ICR included the assumption that 10 nonattainment areas originally classified as Marginal would require reclassification to Moderate after the July 20, 2015, attainment date for Marginal nonattainment areas. If this proposed action is finalized, 11 nonattainment areas originally classified as Marginal would be reclassified to Moderate. Therefore, we believe that the original estimate in the ICR has fairly quantified the information collection activities that will be associated with the 11 areas we proposed to reclassify in this action. Upon finalization of the reclassification to Moderate, the states with jurisdiction over the 11 areas will be required to prepare an attainment demonstration as well as submit SIP revisions for purposes of meeting RFP requirements and RACT. The attainment demonstration requirement is codified at 40 CFR 51.908, which implements CAA subsections 172(c)(1), 182(b)(1)(A) and 182(c)(2)(B). The RFP SIP submission requirement is codified at 40 CFR 51.910, which implements CAA subsections 172(c)(2) and 182(b)(1)(A), and the RACT SIP submission requirement is codified at 40 CFR 51.912, which implements CAA subsections 172(c)(1) 182(b)(2),(c),(d) and (e).

States should already have information from emission sources, as facilities should have provided this information to meet 1-hour and 1997 8-hour ozone NAAQS SIP requirements, operating permits and/or emissions reporting requirements. Such information does not generally reveal the details of production processes. But, to the extent it may, CBI for the affected facilities is protected. Specifically, submissions of emissions and control efficiency information that is confidential, proprietary and trade secret is protected from disclosure under the requirements of subsections 503(e) and 114(c) of the CAA.

The annual burden for the information collection associated with all 46 nonattainment areas, averaged over the first 3 years of the ICR, was estimated to be a total of 120,000 labor hours per year at an annual labor cost of $2.4 million (present value) over the 3-year period, or approximately $91,000 per state for the 25 state respondents and the District of Columbia. The average annual reporting burden is 690 hours per response, with approximately two responses per state for 58 state responses.[18] There are no capital or operating and maintenance costs associated with the SIP Requirements Rule's or this proposed rule's requirements. 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.

The comment period on the agency's need for this information ran from June 6, 2013, to August 5, 2013.[19] No comments were received on the accuracy of the provided burden estimates and any suggested methods for minimizing respondent burden. The EPA public docket for this rule includes the ICR approved in conjunction with the 2008 ozone NAAQS SIP Requirements 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. This action will not impose any requirements on small entities. The proposed determinations of attainment and failure to attain the 2008 ozone NAAQS (and resulting reclassifications), and the proposed determination to grant 1-year attainment date extensions do not in and of themselves create any new requirements beyond what is mandated by the CAA. Instead, this rulemaking only makes factual determinations, and does not directly regulate any 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. This action imposes no enforceable duty on any state, local or tribal governments or the private sector.

[15] 80 FR 12264, March 6, 2015.

[16] 77 FR 30088, May 21, 2012.

[17] 77 FR 34227, June 11, 2012.

[18] State responses are the number of SIP revisions required from the respective states to satisfy their 2008 ozone nonattainment requirements. Due to an oversight in the original submitted ICR, the estimated number of state responses (58) does not include the one required SIP revision for the Mississippi portion of the multi-state Memphis nonattainment area.

[19] 78 FR 34178, June 6, 2013.

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 EPA has identified a number of tribal areas implicated in the 36 areas covered by the EPA's proposed determinations of attainment and failure to attain the 2008 ozone NAAQS (and resulting reclassifications), and the proposed determination to grant 1-year attainment date extensions. We intend to communicate with potentially affected tribes located within the boundaries of the nonattainment areas for the 2008 ozone NAAQS as we move forward in developing a final rule.

G. Executive Order 13045: Protection of Children From Environmental Health 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 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 Advancement Act (NTTAA)

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 of the preamble titled ''Environmental Justice Considerations.''

List of Subjects in 40 CFR Part 52

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

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

Dated: August 19, 2015.

Janet G. McCabe,

Acting Assistant Administrator.

[FR Doc. 2015–21196 Filed 8–26–15; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R07–OAR–2015–0512; FRL–9932–79–Region 7]

Approval and Promulgation of Air Quality Implementation Plans; State of Kansas; Infrastructure SIP Requirements for the 2008 Ozone National Ambient Air Quality Standard

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve an element of a State Implementation Plan (SIP) submission from the State of Kansas addressing the applicable requirements of Clean Air Act (CAA) section 110 for the 2008 National Ambient Air Quality Standards (NAAQS) for Ozone (O_3), which requires that each state adopt and submit a SIP to support implementation, maintenance, and enforcement of each new or revised NAAQS promulgated by EPA. These SIPs are commonly referred to as ''infrastructure'' SIPs. The infrastructure requirements are designed to ensure that the structural components of each state's air quality management program are adequate to meet the state's responsibilities under the CAA.

DATES: Comments on this proposed action must be received in writing by September 28, 2015.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R07–OAR–2015–0512, by mail to Lachala Kemp, Environmental Protection Agency, Air Planning and Development Branch, 11201 Renner Boulevard, Lenexa, Kansas 66219. Comments may also be submitted electronically or through hand delivery/courier by following the detailed instructions in the **ADDRESSES** section of the direct final rule located in the rules section of this **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Lachala Kemp, Environmental Protection Agency, Air Planning and Development Branch, 11201 Renner Boulevard, Lenexa, Kansas 66219 at (913) 551–7214 or by email at *kemp.lachala@epa.gov.*

SUPPLEMENTARY INFORMATION: In the final rules section of this **Federal Register**, EPA is approving the state's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial revision amendment and anticipates no relevant adverse comments to this action. A detailed rationale for the approval is set forth in the direct final rule. If no relevant adverse comments are received in response to this action, no further activity is contemplated in relation to this action. If EPA receives relevant adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed action. EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. Please note that if EPA receives adverse comment on part of this rule and if that part can be severed from the remainder of the rule, EPA may adopt as final those parts of the rule that are not the subject of an adverse comment. For additional information, see the direct final rule which is located in the rules section of this **Federal Register**.

List of Subjects in 40 CFR Part 52

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

Dated: August 12, 2015.

Mark Hague,

Acting Regional Administrator, Region 7.

[FR Doc. 2015–20894 Filed 8–26–15; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R06–OAR–2009–0648; FRL–9931–31–Region 6]

Approval and Promulgation of Implementation Plans; New Mexico; Nonattainment New Source Review Permitting State Implementation Plan Revisions for the City of Albuquerque-Bernalillo County

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve revisions to the New Mexico State Implementation Plan (SIP) for the City of Albuquerque-Bernalillo County. These revisions provide updates to the City of Albuquerque-Bernalillo County major Nonattainment New Source Review (NNSR) permit program. The EPA is proposing this action under section 110 and part D of the Clean Air Act (CAA or the Act).

DATES: Comments must be received on or before September 28, 2015.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R06–OAR–2009–0648, by one of the following methods:

- *http://www.regulations.gov.* Follow the online instructions.
- *Email:* Ms. Erica Le Doux at *ledoux.erica@epa.gov.*
- *Mail or delivery:* Ms. Erica Le Doux, 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–2009–0648. 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.

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: Ms. Erica Le Doux, (214) 665–7265, *ledoux.erica@epa.gov.* To inspect the hard copy materials, please schedule an appointment with Ms. Le Doux or Mr. Bill Deese at (214) 665–7253.

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

I. Background

The 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: Prevention of Significant Deterioration (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. The revisions to 20.11.60 NMAC submitted on August 16, 2010 and July 26, 2013 were submitted as revisions to the City of Albuquerque-Bernalillo County NNSR permit program and will be evaluated against the requirements for NNSR programs at 40 CFR 51.160–51.165.

A. August 16, 2010, Submittal

On August 16, 2010, the Governor Bill Richardson submitted revisions to the New Mexico SIP that incorporated revisions to the NMAC for the City of Albuquerque-Bernalillo County. The August 16, 2010, submittal includes final revised regulation sections 1, 2, 6, 7, 12 through 27 (including five new additional sections) in 20.11.60 NMAC, Permitting in Nonattainment Areas. The updates that were accepted by the Albuquerque-Bernalillo County Air Quality Control Board constitutes the integration of language that is consistent with federal NNSR permitting regulations.

B. July 26, 2013, Submittal

On July 26, 2013, the designee of the Governor, New Mexico Environment Department Cabinet Secretary, Ryan Flynn, submitted revisions to the SIP. This SIP submittal incorporated revisions to the NMAC for the City of Albuquerque-Bernalillo County. It includes final revised regulation sections 6, 7, 12, 13, and 15 in 20.11.60 NMAC, Permitting in Nonattainment Areas. The updates that were accepted by the Albuquerque-Bernalillo County Air Quality Control Board constitutes the integration of language that is consistent with federal NNSR permitting regulations.

C. What is not included in today's proposed action?

The EPA also received in the August 16, 2010 submittal revisions to regulations within 20.11.61 NMAC—Prevention of Significant Deterioration (PSD) permitting program and Infrastructure SIP for Particulate Matter less than 2.5 Micrometers ($PM_{2.5}$) and Ozone (O_3). In the July 26, 2013 submittals, revisions to regulations within 20.11.61 NMAC–PSD permitting program and 20.11.42 NMAC—Operating Permits were also included. The revisions to 20.11.61 NMAC were submitted as revisions to the New

Mexico SIP. The 20.11.42 NMAC revisions were submitted as an update the title V program. As part of this review, EPA is taking action only on the submitted revisions to 20.11.60 NMAC. We are addressing the amended regulations in 20.11.61 NMAC as part of separate SIP action (*See* 80 FR 28901); for the revisions to 20.11.42 NMAC, it will be addressed separately in a later action to update the NM title V program.

II. The EPA's Evaluation

The current SIP-approved version of 20.11.60 NMAC, Permitting in Nonattainment Areas, was last approved by EPA on April 26, 2007, and became effective on May 29, 2007. *See* 72 FR 20728. Substantive revisions to the City of Albuquerque-Bernalillo County NNSR program amend the existing state regulations to address the following federal NNSR requirements promulgated by the EPA:

- Implementation of the NSR Program for $PM_{2.5}$ (73 FR 28321);
- PSD for $PM_{2.5}$-Increments, Significant Impact Levels (SILs) and Significant Monitoring Concentration (SMC) (75 FR 64864);
- Final Rule to Implement the 8-hour Ozone (O_3) NAAQS-Phase 2; Final Rule to Implement Certain Aspects of the 1990 Amendments Relating to NSR and PSD as They Apply to Carbon Monoxide (CO), PM and O_3 NAAQS (70 FR 71612);
- PSD and NNSR: Reasonable Possibility in Recordkeeping (72 FR 72607); and
- PSD and NNSR: Reconsideration of Inclusion of Fugitive Rule; Interim Rule; Stay and Revisions (76 FR 17548).

Further, the amendments contained in the two submittals revise the rules to conform to the latest changes to New Mexico Air Code for the City of Albuquerque-Bernalillo County laws which must continue to meet minimum federal requirements and include grammatical and formatting corrections. In addition, more headings were added to provide clarity to the rules.

The EPA's evaluation of the revisions to the New Mexico SIP for the City of Albuquerque-Bernalillo County NNSR program included a line-by-line comparison in the TSD of the proposed revisions with the federal requirements. State and local permitting authorities may meet the requirements of 40 CFR part 51 with different but equivalent regulations. While some permitting authorities choose to incorporate by reference the applicable federal rules, other permitting authorities (such as the City of Albuquerque-Bernalillo County) choose to draft rules that track the federal language but contain differences. We found that in most cases, the state regulatory language is identical to the federal rule. Where the rules are not identical, they are at least consistent and support the federal rules and definitions. The EPA is therefore making a preliminary determination that the City of Albuquerque-Bernalillo County has adopted the necessary elements for the NNSR program to comply with the federal regulatory requirements for implementation of the $PM_{2.5}$ and O_3 NAAQS.

III. Proposed Action

We evaluated and are proposing to approve the revisions to 20.11.60 NMAC submitted for SIP inclusion on August 16, 2010 and July 26, 2013. The EPA has made the preliminary determination that the revisions are approvable because the submitted rules are adopted and submitted in accordance with the CAA and are consistent with the EPA's regulations for NNSR permitting at 40 CFR 51.160–51.165. Therefore, under section 110 and part D of the Act, and for the reasons presented above and our accompanying TSD, the EPA proposes to fully approve the specific revisions to the New Mexico SIP for the City of Albuquerque-Bernalillo County as identified below.

- Revisions to 20.11.60.1 NMAC as adopted on July 14, 2010 and submitted on August 16, 2010;
- Revisions to 20.11.60.2 NMAC as adopted on July 14, 2010 and submitted on August 16, 2010;
- Revisions to 20.11.60.6 NMAC as adopted on July 14, 2010 and submitted on August 16, 2010; and adopted on April 10, 2013 and submitted on July 26, 2013
- Revisions to 20.11.60.7 NMAC as adopted on July 14, 2010 and submitted on August 16, 2010; and adopted on April 10, 2013 and submitted on July 26, 2013
- Revisions to 20.11.60.12 NMAC as adopted on July 14, 2010 and submitted on August 16, 2010; and adopted on April 10, 2013 and submitted on July 26, 2013
- Revisions to 20.11.60.13 NMAC as adopted on July 14, 2010 and submitted on August 16, 2010; and adopted on April 10, 2013 and submitted on July 26, 2013
- New 20.11.60.14 NMAC as adopted on July 14, 2010 and submitted on August 16, 2010;
- New 20.11.60.15 NMAC as adopted on July 14, 2010 and submitted on August 16, 2010; and adopted on April 10, 2013 and submitted on July 26, 2013
- New 20.11.60.16 NMAC as adopted on July 14, 2010 and submitted on August 16, 2010;
- Revisions to 20.11.60.17 NMAC as adopted on July 14, 2010 and submitted on August 16, 2010;
- Revisions to 20.11.60.18 NMAC as adopted on July 14, 2010 and submitted on August 16, 2010;
- New 20.11.60.19 NMAC as adopted on July 14, 2010 and submitted on August 16, 2010;
- New 11.60.20 NMAC as adopted on July 14, 2010 and submitted on August 16, 2010;
- Revisions to 20.11.60.21 NMAC as adopted on July 14, 2010 and submitted on August 16, 2010;
- Revisions to 20.11.60.22 NMAC as adopted on July 14, 2010 and submitted on August 16, 2010;
- Revisions to 20.11.60.23 NMAC as adopted on July 14, 2010 and submitted on August 16, 2010;
- Revisions to 20.11.60.24 NMAC as adopted on July 14, 2010 and submitted on August 16, 2010;
- Revisions to 20.11.60.25 NMAC as adopted on July 14, 2010 and submitted on August 16, 2010;
- Revisions to 20.11.60.26 NMAC as adopted on July 14, 2010 and submitted on August 16, 2010;
- Revisions to 20.11.60.27 NMAC as adopted on July 14, 2010 and submitted on August 16, 2010;

The EPA is proposing to find that the August 16, 2010 and July 26, 2013, submittals together addresses all required NNSR elements for the implementation of the 8-hour ozone NAAQS and the 1997 and 2006 $PM_{2.5}$ NAAQS. We note that the City of Albuquerque-Bernalillo County NNSR program does not include regulation of VOCs and ammonia as $PM_{2.5}$ precursors. However, 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 $PM_{2.5}$ levels in the City of Albuquerque-Bernalillo County do not currently exceed the standard. In the event that an area is designated nonattainment for the 2012 $PM_{2.5}$ NAAQS or any other future $PM_{2.5}$ NAAQS, New Mexico for the City of Albuquerque-Bernalillo County 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.

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 New Mexico State regulations for the City of Albuquerque-Bernalillo County 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 CAA and applicable Federal regulations. See, 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely proposes to approve state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

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

In addition, 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, Nitrogen dioxide, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

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

Dated: August 12, 2015.

Ron Curry,

Regional Administrator, Region 6.

[FR Doc. 2015–20898 Filed 8–26–15; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 150304214–5660–01]

RIN 0648–BE94

Fisheries of the Northeastern United States; Atlantic Herring Fishery; Framework Adjustment 4

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

ACTION: Proposed rule, request for comments.

SUMMARY: NMFS proposes management measures recommended by the New England Fishery Management Council in Framework Adjustment 4 to the Atlantic Herring Fishery Management Plan to further enhance catch monitoring and address discarding in the herring fishery. NMFS proposes measures that would clarify the slippage definition (*i.e.,* discarding catch before it has been sampled by an observer), require limited access herring vessels to report slippage via the daily vessel monitoring system catch report, and require slippage consequence measures. NMFS also proposes management measures recommended by the Council in Framework 4 that would require volumetric estimates of total catch and fish holds to be empty of fish before vessels depart on a herring trip and seeks public comment on specific issues with these measures identified by NMFS. Lastly, NMFS proposes minor corrections to existing regulations.

DATES: Public comments must be received by September 28, 2015.

ADDRESSES: The New England Fishery Management Council developed an environmental assessment (EA) for this action that describes the proposed action and other considered alternatives and provides a thorough analysis of the impacts of the proposed measures and alternatives. Copies of the framework, the EA, and the Regulatory Impact Review (RIR)/Initial Regulatory Flexibility Analysis (IRFA), are available upon request from Thomas A. Nies, Executive Director, New England Fishery Management Council, 50 Water Street, Newburyport, MA 01950. The EA/RIR/IRFA is accessible via the Internet at *www.greateratlantic.fisheries.noaa.gov.*

You may submit comments on this document, identified by NOAA–NMFS–2015–0067, 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-2015-0067,* click the ''Comment Now!'' icon, complete the required fields, and enter or attach your comments.
- Mail: John K. Bullard, Regional Administrator, NMFS, Northeast Regional Office, 55 Great Republic Drive, Gloucester, MA 01930. Mark the outside of the envelope, ''Comments on the Herring Framework Adjustment 4 Proposed Rule.''
- Fax: (978) 281–9135, Attn: Carrie Nordeen.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (*e.g.,* name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous).

Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this proposed

rule may be submitted to NMFS, Greater Atlantic Regional Fisheries Office, and by email to *OIRA_Submission@omb.eop.gov* or fax to (202) 395–5806.

FOR FURTHER INFORMATION CONTACT: Carrie Nordeen, Fishery Policy Analyst, phone 978–281–9272, fax 978–281–9135.

SUPPLEMENTARY INFORMATION:

Background

The Council adopted Framework Adjustment 4 to the Atlantic Herring Fishery Management Plan at its April 22, 2014, meeting. The Council submitted Framework 4 to NMFS for review on July 18, 2014, and resubmitted to NMFS on February 27, 2015, and April 30, 2015.

This proposed rule includes management measures recommended by the Council in Framework 4 intended to further enhance catch monitoring and address discarding in the herring fishery. If implemented, Framework 4 would clarify the slippage definition, require limited access herring vessels to report slippage events on the daily vessel monitoring system (VMS) catch report, and establish slippage consequences. Slippage consequence measures would require vessels with All Areas (Category A) or Areas 2/3 (Category B) Limited Access Herring Permits to move 15 nautical miles (27.78 km) following an allowable slippage event, slippage due to safety, mechanical failure, or excess catch of spiny dogfish, and to terminate a fishing trip and return to port following a non-allowable slippage event, slippage for any other reason.

This proposed rule includes two additional management measures also recommended by the Council in Framework 4. These measures include requiring volumetric catch estimates to be collected aboard vessels with limited access herring permits and requiring vessels with Category A or B herring permits to have fish holds empty of fish when departing on a herring trip. NMFS specifically seeks public comment on the consistency of these measures with the Magnuson-Stevens Fisheries Conservation and Management Act (MSA) and other applicable law.

Additionally, this proposed rule contains minor corrections to existing regulations. NMFS proposes these adjustments under the authority of section 305(d) to the MSA, which provides that the Secretary of Commerce may promulgate regulations necessary to ensure that adjustments to a fishery management plan (FMP) are carried out in accordance with the FMP and the MSA. These adjustments, which are identified and described below, are necessary to clarify current regulations or the intent of the Herring FMP, and would not change the intent of any regulations.

Proposed Measures

The proposed regulations are based on the measures in Framework 4. The Council developed Framework 4 to build on catch monitoring improvements implemented in Amendment 5 to the Herring FMP (79 FR 8786, February 13, 2014) and to address dealer reporting requirements and slippage caps that NMFS disapproved as part of Amendment 5.

NMFS supports improvements to fishery dependent data collections and shares the Council's concern for reducing unnecessary discarding. During the development of Framework 4, NMFS expressed concern with the lack of rationale supporting two of the measures in Framework 4, specifically the measures requiring volumetric estimates of total catch and empty fish holds at the beginning of a trip. The Council did not provide evidence of specific problems with catch monitoring or discarding that these measures would address, nor did it demonstrate how these measures would rectify any such problems. Therefore, NMFS urged the Council to ensure Framework 4 provided adequate justification to support these measures. At this time, NMFS does not consider Framework 4 to contain sufficient justification for these measures and NMFS remains concerned that the utility of these measures does not outweigh the compliance, administration, and enforcement costs.

This proposed rule describes concerns about these measures' consistency with the MSA and other applicable law. Following public comment, NMFS will determine if these two measures can be approved or if they must be disapproved. NMFS seeks public comment on all proposed measures in Framework 4, and, in particular, NMFS seeks public comment on the proposed requirements for volumetric estimates of total catch and empty fish holds at the beginning of a trip and whether these measures should be approved or disapproved.

Volumetric Catch Estimates

Framework 4 would require vessels with limited access herring permits to have their fish holds certified and Northeast Fisheries Science Center (NEFOP) observers to collect volumetric estimates of total catch by measuring the volume of fish in the hold prior to offloading. Observers would convert the volumetric estimate to a weight and submit the estimated weight to the Greater Atlantic Regional Fisheries Office (GARFO) for a cross-check of vessel trip reports (VTRs) and dealer reports.

Vessels with limited access herring permits that store herring catch in fish holds would be required to certify the capacity of their fish holds and mark their holds at regular intervals to facilitate collection of volumetric catch estimates. The fish hold capacity measurement would need to be certified by one of the following entities: (1) A Certified Marine Surveyor with a fishing specialty by the National Association of Marine Surveyors (NAMS); (2) an Accredited Marine Surveyor with a fishing specialty by the Society of Accredited Marine Surveyors (SAMS); (3) employees or agents of a classification society approved by the U.S. Coast Guard pursuant to 46 U.S.C. 3316(c); (4) the Maine State Sealer of Weights and Measures; (5) a professionally-licensed and/or registered Marine Engineer; or (6) a Naval Architect with a professional engineer license. This proposed list of entities is consistent with the list of entities approved to certify fish hold capacities in the Atlantic Mackerel, Squid, and Butterfish FMP. As part of the limited access herring permit renewal process in 2016, vessel owners would be required to submit a certified fish hold capacity measurement to NMFS with a signed certification by the individual or entity that completed the measurement specifying how they met the definition of a qualified individual or entity.

Regulations in the State of Maine already require that herring vessels have their fish holds measured and ''sealed'' by the State Sealer of Weights and Measures. Additionally, regulations at 50 CFR 648.4(a)(5)(iii)(H)(*1*) specifying vessel upgrade restrictions require that Tier 1 and Tier 2 limited access Atlantic mackerel vessels certify the capacity of their fish holds and submit this information to NMFS. Therefore, many vessels that participate in the herring fishery may already have the information necessary to determine the capacity of their fish holds.

Vessels with limited access herring permits would be required to obtain and retain on board a NMFS-approved measuring stick that would be available to the observer to measure the amount of fish in the fish hold. At the completion of a fishing trip, but prior to offloading, the observer would lower the NMFS-approved measuring stick into the fish hold(s) to measure the amount of fish and then estimate the total

volume of fish on board. Once the observer estimates the total volume of fish in the fish hold, the observer would calculate the total weight of fish on board based on NMFS-approved volume to weight conversions. Framework 4 proposes the following conversions: (1) 1 cubic foot (0.28 cubic m) = 56.2 pounds (25.49 kg); (2) 1.244 cubic feet (0.035 cubic m) = 1 bushel herring (0.035 cubic m) = 70 pounds (31.75 kg); (3) 1 hogshead (0.62 cubic m) = 17.5 bushels (0.62 cubic m) = 1,225 pounds (555.65 kg). Additionally, Framework 4 proposes that 5 percent of the total weight would be deducted to account for water in the fish hold. Once the final estimate of total weight of fish is determined by the observer, that estimate would be recorded along with other sampling data collected on that fishing trip. After the observer's data are checked and finalized by NEFOP, the observer's estimate of total catch would be made available to GARFO for the purpose of cross-checking VTRs and dealer data.

Currently, observers do not estimate total catch in the herring fishery. Estimating the volume of fish in fish holds is an accepted practice elsewhere in the world, particularly Europe, to estimate the weight of total catch. However, requiring observers in the herring fishery to collect volumetric estimates of total catch would necessitate significant development of this measure prior to implementation, including developing a sampling protocol, approving volume to weight conversions and deductions to account for water in the fish hold, training observers, and evaluating how to use the data. Additionally, observers in the herring fishery are not currently required to stay with the vessel after landing and contracts for observers do not include sampling responsibilities when the vessel is in port. Requiring observers to sample vessels in port would require modifications to the description of observer duties and contracts with observer service providers.

The requirement for observers to estimate the amount of catch in the fish hold is intended to enhance catch monitoring in the herring fishery by providing an independent estimate of total catch. This measure was developed to address stakeholder concerns with NMFS's reliance on industry-reported catch data to monitor the herring fishery. Specifically, some stakeholders, including environmental organizations, the groundfish industry, and recreational fishing groups, believe that herring catch is not accurately reported by the industry and that large discrepancies exist between vessel and dealer reports. The herring industry, in general, does not believe that herring catch is being misreported but, in an effort to address stakeholder concerns, supports the requirement for observers to collect an estimate of total catch.

Vessels and dealers report catch by species. VTRs, in combination with observer data, are used by NMFS in herring stock assessments and to track catch against catch caps in the herring fishery, while dealer data are used to track catch against herring annual catch limits. The proposed measure would provide an estimate of total catch, but not catch by species. Therefore, the volumetric estimate could not be used to replace either VTRs or dealer data and it could not be used for catch monitoring or stock assessments. While the data generated under this proposed measure would not replace industry-reported data used for quota monitoring and stock assessments, it is intended to help measure the utility of industry-reported catch data, identify, catch reporting issues, and alleviate concerns that vessel operators and dealers collude to misreport catch.

Framework 4 does not provide evidence of misreporting by the herring industry, but it does highlight past differences between the amount of herring reported by vessels and dealers. Prior to 2008, discrepancies between VTRs and dealer data ranged from 4 percent to 54 percent. The vessel hail estimate (reported on the VTR) is different than amount of fish purchased (reported by dealers) so differences between these data sets are expected. However, discrepancies between VTR and dealer data greater than 10 percent are considered substantial.

In recent years, discrepancies between VTRs and dealer data have been minimal. VTRs were higher than dealer reports in 2009 (2 percent), 2010 (1.3 percent), 2011 (1.2 percent), and 2013 (0.1 percent) and less than dealer reports in 2012 (0.1 percent). As described in NMFS's April 17, 2014, letter to the Council, GARFO has improved the process for cross-checking and resolving differences between VTR and dealer data. Staff use advanced programming to match VTR and dealer data for each trip and identify records that do not match. They then investigate each unmatched record to determine the cause of the discrepancy and make the correction to the appropriate data set. This investigation process includes interviews with dealers, vessel operators, and owners to obtain supporting documentation for the correction and to ensure industry concurs with the data corrections. Given that discrepancies between VTR and dealer data are investigated and resolved, NMFS does not consider as necessary the proposed measure for observers to collect a volumetric estimate of total catch to help identify or resolve discrepancies between VTR and dealer data.

Framework 4 discusses the concern that catch is not being accurately reported, but cautions whether the proposed measure would be more accurate than methods currently used by vessel operators or dealers to estimate catch. The volumetric conversions proposed in Framework 4 are based on herring harvested in other parts of the world. Using a volumetric conversion assumes consistency in the size, weight, and density of the catch, but there can be substantial variability in the catch composition of the herring fishery, depending on the area and season. The proposed 5 percent deduction from total weight to account for water in the tanks is based on best known practices among the industry, but the Council did not rigorously evaluate the amount of the deduction. For these reasons, Framework 4 explains that converting a volume of total fish to pounds based on a herring-based conversion could produce less accurate catch estimates than current vessel or dealer estimates. Because of the potential variability and uncertainties associated with volumetric estimates and volumetric conversions, catch estimates derived under this proposed measure would not be used to replace any current estimates of herring catch. Therefore, the impact of this proposed measure on the herring resource is likely to be negligible.

Framework 4 suggests that portside samplers, in addition to observers, could provide independent catch verification in the herring fishery. Currently, the portside sampling program that samples the herring fishery is a voluntary program administered by the states of Massachusetts and Maine. It is not possible to implement a mandatory Federal data collection through a voluntary state sampling program. It may be possible to collect catch data in a future Federal portside sampling program, such as the portside sampling alternative for the midwater trawl fleet being considered in the Council's Industry-Funded Monitoring Omnibus Amendment, provided that the data collected would improve monitoring in the herring fishery.

During the development of Framework 4, NMFS expressed concern regarding the utility of the proposed measure and the reliability of a volumetric estimate of total catch. When

the Council adopted Framework 4 at its April 2014 meeting, NMFS commented that it was unclear how GARFO would use the volumetric estimate of total catch and whether a volumetric estimate collected by an observer would be any more accurate than either the vessel or dealer reported data. Framework 4 describes that the proposed measure is intended to enhance catch monitoring, but it does not describe the specifics of how the volumetric catch estimate will be used to cross-check vessel and dealer data. In recent years, discrepancies between VTR and dealer reports have averaged approximately 1 percent; therefore, using the volumetric estimate to resolve those discrepancies does not seem necessary. Additionally, because of assumptions inherent in the calculation to convert volume to weight, Framework 4 cautions that the proposed measure could result in the catch estimate less accurate than either the vessel or dealer data.

In summary, NMFS seeks public comment on whether and how the proposed measure has practical utility that outweighs its additional compliance and administrative costs. Specifically, NMFS seeks comment on whether and how the benefit of the information provided from this measure compares to the additional burden on vessel owner/operators to certify their fish holds and make available a measuring stick for observers, consistent with the requirements of MSA National Standards 5 and 7 and the Paperwork Reduction Act (PRA). NMFS seeks comment on the quality of the information produced and whether and how it is relevant to and sufficient for the purposes of monitoring the fishery, facilitating inseason management, or judging the performance of the management regime, consistent with the requirements of MSA National Standard 2. NMFS also seeks comment on whether and how this measure allows the fishery to operate at the lowest possible administrative and enforcement costs relative to any additional monitoring benefit provided by this measure, consistent with the requirements of MSA National Standard 5. Lastly, NMFS seeks comment on the accuracy of the burden estimate, ways to enhance the quality or utility of the information collected, and ways to minimize the burden of the information collection. After evaluating public comment, NMFS will determine if the proposed volumetric catch estimate requirement can be approved or if it must be disapproved.

Empty Fish Holds

Framework 4 would require fish holds of vessels with Category A or B limited access herring permits to be empty of fish before leaving the dock on any trip declared into the herring fishery. A waiver may be issued by an authorized law enforcement officer when fish have been reported as caught and cannot be sold due to the condition of fish.

The Council proposed this measure to enhance catch monitoring and discourage wasteful fishing practices in the herring fishery. The practice of discarding unmarketable fish on a subsequent trip is not known to be prevalent in the herring fishery, but some stakeholders are concerned that fish not purchased by a dealer, and discarded on a subsequent trip, may not be reported on the VTR. The Council intended this measure to discourage the discarding of unreported fish, provide a mechanism to document when harvested fish become unmarketable, and prevent vessel operators from mixing fish from multiple trips in the hold, potentially biasing catch data.

Initially, this measure consisted of only the requirement that vessel fish holds be empty of fish at the beginning of a herring trip. But recognizing that there may be unforeseen events that make it difficult to sell fish (*e.g.,* refrigeration failure, poor condition, lack of market), the Council proposed the waiver provision to mitigate the potential costs associated with disposing of unmarketable catch on land. The Council intended the waiver to provide a mechanism to verify that fish had been reported and document the nature and extent to which vessels are departing on trips with fish in their holds. Additionally, some vessels in the herring fishery land their catch in multiple ports, and the Council intended that the waiver provision would allow that practice to continue.

NMFS is concerned with the lack of justification for this measure and how the compliance and enforcement costs associated with this measure seem to outweigh the benefits. NMFS would still need to significantly develop this measure prior to implementation, including developing a protocol for checking if fish holds are empty of fish, developing guidance for when/how waivers would be issued, specifying what a vessel must do if it cannot obtain a waiver, and developing a process to use/track waivers. At the April 2014 Council meeting, NMFS commented that it was unclear how this requirement would improve catch data and urged the Council to ensure that Framework 4 provided clear rationale for this measure.

While prohibiting the disposal of unmarketable catch at sea, unless a waiver is issued, may discourage wasteful fishing practices, there is insufficient support in the record to determine whether this practice is frequently occurring in the herring fishery. The costs associated with a herring trip, such as fuel, crew wages, and insurance, are substantial, so it is unlikely that vessel owners/operators are harvesting fish with the intention to discard rather than sell the fish. Additionally, Framework 4 acknowledges that disposing of unmarketable catch at sea on a subsequent fishing trip is not known to occur regularly in the herring fishery.

Framework 4 explains that it is unclear whether unmarketable catch discarded at sea on a subsequent trip is reported. Part of the justification for the waiver provision is to provide a way to verify that fish have been reported and document the extent to which vessels are departing on trips with fish in their holds. However, the Council's proposed waiver provides no way of verifying the amount of fish reported relative to the amount of fish left in the hold. Therefore, NMFS does not consider this measure to contain a viable mechanism to verify whether harvested fish that are left in the hold were reported by the vessel.

Because the proposed measure lacks a mechanism to verify or correct the amount of fish reported on the VTR, the proposed measure is unlikely to improve catch monitoring in the herring fishery. In contrast, the compliance and enforcement costs associated with the proposed measure may be high. For example, vessel operators needing to dispose of fish at sea may lose time and money waiting for an authorized law enforcement officer to travel to their vessel, inspect it, and issue a waiver. Additionally, it would likely be time consuming for authorized officers to issue waivers and would divert resources from other law enforcement duties.

This proposed measure is also intended to enhance catch monitoring in the herring fishery by preventing vessel operators from mixing fish from multiple trips in the hold and biasing catch data. NEFOP observers sample the catch while it is on the deck, before it is placed in the fish hold, so there is no chance that observers would be sampling fish from multiple trips that were mixed in the hold. The herring fishery is also sampled portside by the Massachusetts' Department of Marine Fisheries (MA DMF) and Maine's

Department of Marine Resources. Mixing of catch from multiple fishing trips, although unlikely, may have the potential to bias landings data used to inform herring stock assessments, state management spawning closures, and the river herring avoidance program operated by the University of Massachusetts' School of Marine Fisheries and MA DMF.

The Atlantic States Marine Fisheries Commission is also considering a requirement that vessel fish holds be empty of fish before vessels depart on a herring fishing trip in Amendment 3 to its Interstate FMP for Atlantic Herring. Establishing a similar provision in this action may promote coordination between Federal and state management of the herring fishery, but for the reasons described above, it is unlikely to improve catch monitoring in the herring fishery.

In summary, NMFS seeks public comment on whether and how the proposed measure has practical utility that outweighs its additional compliance and enforcement costs. Specifically, NMFS seeks comment on whether and how requiring empty fish holds improves catch monitoring and how any benefit of catch monitoring provided by requiring empty fish holds compares to the additional burden on vessel owner/operators to obtain a waiver from an authorized officer, consistent with the requirements of MSA National Standard 7 and the PRA. NMFS also seeks comment on whether and how the measure minimizes costs, avoids unnecessary duplication, and provides fishermen with the greatest possible freedom of action in conducting business or imposes an unnecessary enforcement burden relative to the requirements of MSA National Standard 7. Further, NMFS seeks comment on the proposed measure's efficient use of fishery resources, specifically whether and how this measure allows the fishery to operate at the lowest possible enforcement costs relative to the requirements of MSA National Standard 5. Lastly, NMFS seeks comment on the accuracy of the burden estimate, ways to enhance the quality or utility of the information collected, and ways to minimize the burden of the information collection. After evaluating public comment, NMFS will determine if the proposed empty fish hold requirement can be approved or if it must be disapproved.

Clarification of Existing Slippage Measures

Framework 4 proposes clarifications to slippage measures implemented in Amendment 5 (79 FR 8786, February 13, 2014). Currently, slippage requirements exist for vessels with limited access herring permits and midwater trawl vessels fishing in Groundfish Closed Areas.

Slippage is currently defined at 50 CFR 648.2 as catch that is discarded prior to it being brought aboard a vessel issued a herring permit and/or prior to making it available for sampling and inspection by a NMFS-approved observer. Slippage includes releasing catch from a codend or seine prior to the completion of pumping the catch aboard and the release of catch from a codend or seine while the codend or seine is in the water. Fish that cannot be pumped and remain in the codend or seine at the end of pumping operations are characterized as operational discards, not slippage. Discards that occur after the catch is brought on board and sorted are also not considered slippage.

Measures at § 648.11(m)(4) prohibit slippage aboard any vessel issued a limited access herring permit and carrying a NMFS-approved observer, except when safety or mechanical failure necessitate slipping catch or when excess catch of spiny dogfish prevents fish from being pumped aboard the vessel. Vessel may also make test tows without pumping catch on board for sampling, provided the gear is re-set without releasing its contents and all catch from test tows would be available to the observer to sample when the next tow is brought on board. If catch is slipped for any the reasons described previously, the vessel operator must complete and sign a Released Catch Affidavit detailing where, when, and why catch was slipped and the estimated weight of each species either retained or slipped on that tow. A completed affidavit must be submitted to NMFS within 48 hr of the end of the trip.

When midwater trawl vessels are fishing in the Groundfish Closed Areas, measures at § 648.202(b) require those vessels to carry an observer and prohibit slippage, except when slippage is due to safety, mechanical failure, or excess catch of spiny dogfish, and operational discards. Operational discards are the relatively small amounts of fish that remain in the codend or seine after catch is pumped aboard the vessel. The Groundfish Closed Areas include Closed Area I, Closed Area II, Nantucket Lightship Closed Area, Cashes Ledge Closure Area, and the Western Gulf of Maine Closure Area. Midwater trawl vessels fishing in the Groundfish Closed Areas may make test tows, but if catch is slipped or operationally discarded, the vessel must immediately exit the Groundfish Closed Areas for the remainder of that trip and complete a Released Catch Affidavit within 48 hr of the end of the trip.

When sampling catch at-sea, observers document all catch not brought on board and categorize the catch based on disposition code. Those codes are later evaluated to determine if they were discard, slippage, or operational discard events. Consistent with the recommendations of the Herring Plan Development Team, the Council believes that clarifying the treatment of catch not brought on board should enhance the effectiveness and enforceability of existing and proposed management measures to address slippage.

Framework 4 proposes to maintain the existing requirements that prohibit operational discards aboard midwater trawl vessels fishing in the Groundfish Closed Areas but allow operational discards to occur on board herring vessels fishing outside the Groundfish Closed Areas. Current observer protocols include documenting operational discards and existing regulations require vessel operators to assist the observer with this process. Because it can be time and labor intensive to bring these small amounts of fish on board the vessel, the compliance costs associated with prohibiting operational discards outside the Groundfish Closed Areas would likely outweigh any benefits to the catch monitoring program and the herring resource. Especially considering that hauls containing operational discards are considered to be ''observed'' hauls as the amount and composition of operational discards can be estimated by observers. For these reasons, the Council decided to maintain the existing requirements that prohibit operational discards aboard midwater trawl vessels fishing in the Groundfish Closed Areas but allow operational discards to occur on herring vessels fishing outside the Groundfish Closed Areas.

Framework 4 proposes clarifying slippage, such that a slippage event due to safety, mechanical failure, or excess catch of spiny dogfish would be categorized as an ''allowable'' slippage event and slippage for any other reason would be categorized as a ''non-allowable'' slippage event. These proposed categorizations are intended to help clarify the type of slippage event and would then be used to determine whether a vessel would be subject to any slippage consequences proposed in Framework 4.

Framework 4 proposes that catch not brought on board due to gear damage

would be categorized as mechanical failure and, therefore, as an allowable slippage event. Although a gear failure that results in the release of catch from a codend is often beyond the control of the captain and crew, instances of catch released due to gear damage are similar to instances of catch released due to mechanical failure. Therefore, the Council believes that catch released due to gear damage should be categorized as mechanical failure and an allowable slippage event. As an allowable slippage event, catch not brought on board due to gear damage would be subject to existing slippage requirements and a slippage consequence proposed in Framework 4.

Framework 4 proposes that catch that falls out of or off of gear and is not brought on board would not be categorized as a slippage event. In general, only small amounts of catch fall out or off of gear during fishing and/or when catch is being brought aboard the vessel, unlike the potential for catch loss due to mechanical failure. Therefore, the Council believes that fish that fall out of the gear should be categorized as discarded catch, but not slippage. For these reasons, instances of catch falling out or off of gear during fishing and/or when catch is being brought aboard the vessel would not be subject to existing slippage requirements or any proposed slippage consequences in Framework 4.

Slippage Consequences

Building on the slippage restrictions established in Amendment 5, Framework 4 proposes requiring vessels to move away from the slippage location following an allowable slippage event before resuming fishing. Specifically, vessels with Category A or B herring permits slipping catch, due to safety, mechanical failure, or excess catch of spiny dogfish, would be required to move at least 15 nautical miles (27.78 km) away from the slippage event location. The vessel would be allowed to move 15 nautical miles (27.78 km) away in any direction, but it would be prohibited from resuming fishing until it was at least 15 nautical miles (27.78 km) from the location of the allowable slippage event. Additionally, the vessel would be required to remain at least 15 nautical miles (27.78 km) from the slippage event location for the duration of that fishing trip.

Framework 4 also proposes a trip termination consequence for non-allowable slippage events. Specifically, vessels with Category A or B herring permits slipping catch, for any reason other than safety, mechanical failure, or excess catch of spiny dogfish, would be required to immediately stop fishing and return to port. After having returned to port and terminated the fishing trip, vessels would be allowed to initiate another fishing trip, consistent with the existing pre-trip notification requirements (*e.g.,* contact NEFOP to request an observer, VMS trip/gear declaration) for limited access vessels participating in the herring fishery.

Vessels with Category A or B limited access herring permits fishing with midwater trawl gear in the Groundfish Closed Areas would also be subject to these proposed slippage consequences. Midwater trawl vessels are currently required to exit the Groundfish Closed Areas following an allowable slippage event and remain outside the Groundfish Closed Areas for the duration of that trip. Under these proposed slippage consequences, vessels with Category A or B limited access herring permits fishing with midwater trawl gear in the Groundfish Closed Area would also be required to move at least 15 nautical miles (27.78 km) away from the slippage location following an allowable slippage event. Therefore, following an allowable slippage event, a midwater trawl vessel would need to exit the Groundfish Closed Areas and remain outside of the Groundfish Closed Areas for the remainder of the fishing trip. If the vessel has been issued a Category A or B limited access herring permit, the vessel would also be required to move at least 15 nautical miles (27.78 km) away from the slippage event and remain at least 15 nautical miles (27.78 km) away from the slippage event for the remainder of the fishing trip. Additionally, vessels with Category A or B limited access herring permits fishing with midwater trawl gear in the Groundfish Closed Areas would be required to terminate the fishing trip and return to port following a non-allowable slippage event.

The Council believes that additional consequences for both allowable and non-allowable slippage events will enhance the catch monitoring program established through Amendment 5 by further discouraging slippage in the herring fishery. The herring fishery is a relatively high-volume fishery capable of catching large quantities of fish in a single tow. Therefore, even a few slippage events have the potential to substantially affect species composition data, especially extrapolations of incidental catch. The Council recommended the requirement that vessels move at least 15 nautical miles (27.78 km) following an allowable slippage event for two reasons. First, the 15-nautical mile (27.78-km) move requirement would apply uniformly to all vessels that slipped catch, unlike other considered alternatives (*e.g.*, leaving a management area, leaving a statistical area) where the magnitude of the move would have depended upon the location of the allowable slippage event. Second, the Council believes the 15-nautical mile (27.78-km) move requirement would likely provide sufficient incentive (*i.e.*, costing time and fuel) for herring vessels to minimize slippage while still maximizing opportunities for participating in the herring fishery and fully utilizing the available yield. Additionally, the Council recommended the requirement that vessels terminate their fishing trip following a non-allowable slippage event to reiterate the importance of minimizing slippage. The Mid-Atlantic Fishery Management Council recommended these same slippage consequences for allowable and non-allowable slippage events in the mackerel fishery as part of Framework 9 to the Atlantic Mackerel, Squid, and Butterfish FMP. Many vessels participate in both the herring and mackerel fisheries, and implementing consistent slippage consequences across these fisheries is expected to improve compliance and enforcement of these measures.

Slippage is a significant concern for many stakeholders because they believe it undermines the ability to collect unbiased estimates of herring catch, as well as other species, in the herring fishery. Stakeholders expressed support for proposed measures to address slippage in Framework 4, suggesting that implementing these measures would further ensure that there is accountability for all catch in the herring fishery. Framework 4 explains that when the benefits of slipping catch outweigh the costs of slipping catch, vessel operators are likely to slip catch. Additionally, Framework 4 describes the impact of the slippage consequence measures as low positive for the herring resource and low negative for the herring industry. Minimizing slippage events and better documentation of slipped catch may improve estimates of bycatch in the fishery. To the extent that the amount and species composition of slipped catch can be sampled and/or estimated, catch monitoring will be enhanced. To the extent that slippage events can continue to be reduced, bycatch can be further minimized.

Reporting Slippage Events

Framework 4 proposes requiring vessels with limited access herring permits to report slippage events, including the reason for the slippage

event, via the herring daily VMS catch report. This report, in combination with observer data, would help enhance the enforceability of existing slippage requirements, such as completing a released catch affidavit, as well as the slippage consequences proposed in Framework 4.

Clarifications and Corrections

This proposed rule also contains minor clarifications and corrections to existing regulations. NMFS proposes these adjustments under the authority of section 305(d) to the MSA, which provides that the Secretary of Commerce may promulgate regulations necessary to ensure that framework adjustments to FMPs are carried out in accordance with the FMP and the MSA. These adjustments, which are identified and described below, are necessary to clarify current regulations and would not change the intent of any regulations.

NMFS proposes to add a transiting provision for herring management areas with seasonal sub-ACLs. This provision would allow vessels to transit herring management areas during periods when zero percent of the sub-ACL for those areas was available for harvest with herring harvested from other herring management areas aboard, provided gear was stowed and not available for use. This provision was overlooked during rulemaking for Framework Adjustment 2 to the Herring FMP and is consistent with the intent of that action. NMFS proposes to remove regulations at § 648.80(d)(7) describing requirements for midwater trawl vessels fishing in Groundfish Closed Area I because they are redundant with regulations at § 648.202(b) describing requirements for midwater trawl vessels fishing in any of the Groundfish Closed Areas. NMFS proposes adding the definition of operational discards at § 648.2 and clarifying that operational discards are not permitted aboard midwater trawl vessels fishing in Groundfish Closed Areas, unless those fish have first been made available to an observer for sampling. NMFS proposes revising references to individual years in regulations for carryover at § 648.201 to more correctly describe the timing of carryover. Lastly, NMFS proposes to correct coordinates for Herring Management Area 2 at § 648.200(f)(2) to more accurately define the area.

Classification

Except for the proposed measures requiring volumetric estimates of catch and empty fish holds at the beginning of a trip and pursuant to section 304(b)(1)(A) of the MSA, the NMFS Assistant Administrator has preliminarily determined that this proposed rule is consistent with the Atlantic Herring FMP; other provisions of the MSA; and other applicable law, subject to further consideration after public comment.

This proposed rule has been determined to be not significant for purposes of Executive Order 12866.

The Council prepared an IRFA, as required by section 603 of the Regulatory Flexibility Act (RFA). The IRFA describes the economic impact this proposed rule, if adopted, would have on small entities. A summary of the analysis follows. A copy of this analysis is available from the Council or NMFS (see **ADDRESSES**) or via the Internet at *www.greateratlantic.fisheries.noaa.gov.*

Description of the Reasons Why Action by the Agency Is Being Considered

This action proposes measures intended to further enhance catch monitoring and address discarding in the herring fishery. The preamble to this rule includes a complete description of the reasons why this action is being considered; therefore, those reasons are not repeated here.

Statement of the Objectives of, and Legal Basis for, This Proposed Rule

This action proposes measures intended to further enhance catch monitoring and address discarding in the herring fishery. The preamble to this proposed rule includes a complete description of the objectives of and legal basis for this action; therefore, that description is not repeated here.

Description and Estimate of Number of Small Entities to Which This Proposed Rule Would Apply

This action proposes measures to regulate the activity of vessels with limited access herring permits and vessels with Category A or B limited access herring permits. Therefore, the regulated entity is the business that owns at least one limited access herring permit.

In 2013, the most recent full year of fishery permit data, 93 fishing vessels were issued a limited access herring permit. Vessels and/or permits may be owned by entities affiliated by stock ownership, common management, identity of interest, contractual relationships, or economic dependency. For the purposes of this analysis, ownership entities are defined by those entities with common ownership personnel as listed on permit application documentation. Only permits with identical ownership personnel are categorized as an affiliated entity. For example, if five permits have the same seven personnel listed as co-owners on their application paperwork, those seven personnel form one ownership entity, covering those five permits. If one or several of the seven owners also own additional vessels, with sub-sets of the original seven personnel or with new co-owners, those ownership arrangements are deemed to be separate entities for the purpose of this analysis.

Based on this ownership criterion, NMFS dealer data for recent years (2010–2013), and the size standards for finfish and shellfish firms, there are 68 regulated fishing firms with a limited access herring permit. Of those 68 firms, there are 61 small entities and 7 large entities. Not all of these permitted firms are active: Only 32 small entities and 5 large entities were actively fishing for herring during the last 3 years. Additionally, there are 32 regulated fishing firms that hold Category A or B herring permits. Of those 32 firms, there are 27 small entities and 5 large entities. Not all of these permitted firms are active: Only 19 small entities and 5 large entities were actively fishing for herring during the last 3 years.

Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements of This Proposed Rule

This action proposes collection-of-information requirements subject to review and approval by the Office of Management and Budget (OMB) under the PRA. This requirement will be submitted to OMB for approval under Control Numbers 0648–0202 and 0648–0674.

This action proposes that limited access vessels report slippage events via the daily VMS herring catch report. All limited access herring vessels are currently required to submit daily VMS catch reports, therefore, reporting slippage via VMS is not expected to cause any additional time or cost burden above that which was previously approved under OMB Control Number 0648–0202.

This action proposes that vessels with limited access herring permits that store herring catch in fish holds would be required to certify the capacity of their fish holds and mark their holds at regular intervals to facilitate collection of volumetric catch estimates. The fish hold capacity measurement would need to be certified by one of the following entities: (1) A Certified Marine Surveyor with a fishing specialty by the National Association of Marine Surveyors (NAMS); (2) an Accredited Marine Surveyor with a fishing specialty by the Society of Accredited Marine Surveyors

(SAMS); (3) employees or agents of a classification society approved by the U.S. Coast Guard pursuant to 46 U.S.C. 3316(c); (4) the Maine State Sealer of Weights and Measures; (5) a professionally-licensed and/or registered Marine Engineer; or (6) a Naval Architect with a professional engineer license. Additionally, vessels would be required to obtain and carry on board a NMFS-approved measuring stick that would be available to observers to place into the fish hold(s) to measure the amount of fish. Each hold volume measurement done by a certified marine surveyor is estimated to cost $300-$400. The cost of the NMFS-approved measuring stick is unknown at this time, but expected to be minimal. Ninety-three vessels were issued a limited access herring permit in 2013. Therefore, an estimated 93 vessels would be required to submit a fish hold volume measurement at the time of permit issuance in 2016 and obtain and carry on board a NMFS-approved measuring stick.

This action also proposes that vessels with Category A or B limited access herring permits would be required to have empty holds prior to departing on a herring trip. A waiver may be issued by an authorized law enforcement officer when fish have been reported as caught and cannot be sold due to the condition of fish. Forty-three vessels were issued a Category A or B limited access herring permit in 2013. Therefore, an estimated 43 vessels would be required to obtain a waiver from an authorized officer prior to leaving the dock on a herring trip with fish in the hold. The burden to the vessel operator/owner associated with obtaining a waiver would be any loss of time and/or money waiting for an authorized officer to travel to their vessel, inspect it, and issue a waiver.

Public comment is sought regarding: Whether this proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; the accuracy of the burden estimate; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information, including through the use of automated collection techniques or other forms of information technology. Send comments on these or any other aspects of the collection of information to the Regional Administrator (see **ADDRESSES**), and email to *OIRA_Submission@omb.eop.gov,* or fax to (202) 395–5806.

Notwithstanding any other provisions of the law, no person is required 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. All currently approved NOAA collections of information may be viewed at: *http://www.cio.noaa.gov/services_programs/prasubs.html.*

Federal Rules Which May Duplicate, Overlap, or Conflict With This Proposed Rule

This action does not duplicate, overlap, or conflict with any other Federal law.

Description of Significant Alternatives to the Proposed Action Which Accomplish the Stated Objectives of the Applicable Statues and Which Minimize Any Significant Economic Impact on Small Entities

This action considered alternatives to the proposed action, but, according to the analysis in Framework 4, the non-selected alternatives would not have met the stated goal of the action, minimized any significant economic impact on small entities compared to the proposed action, or been consistent with applicable law.

To help minimize slippage, Framework 4 considered slippage consequence measures that would have required vessels to leave either a herring management or statistical area following an allowed slippage event and remain out of that area for the remainder of the trip. The economic cost of complying with these requirements and their effectiveness at deterring slippage would have arbitrarily depended upon the location of the slippage event and the magnitude of the required move. Therefore, the impact of the non-selected alternatives would not have applied uniformly to all vessels that slipped catch, unlike the impact of complying with the proposed action requiring vessels to move 15 nautical miles (27.78 km), and the non-selected alternatives may not minimize bycatch to the extent practicable. Framework 4 also considered only requiring trip termination following non-allowable slippage events, rather than the proposed action of requiring both a 15-nautical mile (27.78-km) move following allowable slippage events and trip termination following non-allowable slippage events. The proposed action was selected rather than just a trip termination requirement because the proposed action likely provides a greater incentive to not slip catch, thereby helping to minimize bycatch to the extent practicable.

To help identify errors with catch information in the herring fishery, Framework 4 considered requiring dealers to have vessel representatives corroborate dealer landings data and requiring VTRs and dealers reports to be submitted daily rather than weekly. The analysis in Framework 4 indicated that both these non-selected alternatives would have only had a negligible impact on improving the quality of catch information in the herring fishery. Additionally, the reporting burden associated with these non-selected alternatives would have likely been greater than the reporting burden associated with the proposed action requiring vessel fish holds to be empty of fish at the beginning of a herring trip.

Lastly, to improve the quality of herring catch information, Framework 4 considered requiring dealers to estimate herring landings based on standardized weight conversions for specific volumes of herring (*e.g.,* box, storage tote, or truck). The economic cost of complying with these non-selected alternatives would have likely been similar to the costs associated with the proposed action requiring volumetric catch estimates to be collected aboard limited access herring vessels. However, the Framework 4 analysis suggests that the benefit of these non-selected alternatives would likely have been variable, depending on the accuracy of the weight conversions, and may have been more uncertain than any benefit resulting from the proposed action.

List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Recordkeeping and reporting requirements.

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 648 is proposed to be amended as follows:

PART 648—FISHERIES OF THE NORTHEASTERN UNITED STATES

■ 1. The authority citation for part 648 continues to read as follows:

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

■ 2. In § 648.2, the definition for ''Slippage in the Atlantic herring fishery'' is removed and the definitions for ''Operational discards in the Atlantic herring fishery'' and ''Slip, slips, or slipping catch in the Atlantic herring fishery'' are added in alphabetical order to read as follows:

§ 648.2 Definitions.

* * * * *

Operational discards in the Atlantic herring fishery means small amounts of fish that cannot be pumped on board and remain in the codend or seine at the end of pumping operations. Leaving small amounts of fish in the codend or seine at the end of pumping operations is operationally discarding catch.

* * * * *

Slip, slips, or slipping catch in the Atlantic herring fishery means catch that is discarded by a vessel issued an Atlantic herring permit prior to it being brought on board and made available for sampling and inspection by a NMFS-approved observer. Slip or slipping catch includes releasing fish from a codend or seine prior to the completion of pumping the fish on board and the release of fish from a codend or seine while the codend or seine is in the water. Slippage or slipped catch refers to fish that are slipped. Slippage or slipped catch does not include operational discards, discards that occur after the catch is brought on board, or fish that inadvertently fall out of or off fishing gear as gear is being brought on board the vessel.

* * * * *

■ 3. In § 648.4, paragraph (a)(10)(iv)(P) is added to read as follows:

§ 648.4 Vessel permits.

* * * * *

(a) * * *

(10) * * *

(iv) * * *

(P) *Volumetric hold certification.* All vessels with limited access herring permits that store catch in fish holds must certify the capacity of the vessel fish hold. The fish hold capacity measurement must be certified by one of the following qualified individuals or entities: Certified Marine Surveyor with a fishing specialty by the National Association of Marine Surveyors; Accredited Marine Surveyor with a fishing specialty by the Society of Accredited Marine Surveyors; employees or agents of a classification society approved by the Coast Guard pursuant to 46 U.S.C. 3316(c); the Maine State Sealer of Weights and Measures; a professionally-licensed and/or registered Marine Engineer; or a Naval Architect with a professional engineer license. Vessel owners must submit a certified fish hold capacity measurement to NMFS with a signed certification by the individual or entity that completed the measurement.

* * * * *

■ 4. In § 648.11, paragraphs (m)(3)(ii) and (m)(4) are revised and paragraph (m)(5) is added to read as follows:

§ 648.11 At-sea sea sampler/observer coverage.

* * * * *

(m) * * *

(3) * * *

(ii) Reasonable assistance to enable observers to carry out their duties, including but not limited to assistance with: Obtaining and sorting samples; measuring decks, codends, and holding bins; providing an observer a NMFS-approved measuring stick when requested; estimating the volume of fish in fish hold(s) before offloading; collecting bycatch when requested by the observers; and collecting and carrying baskets of fish when requested by the observers.

* * * * *

(4) *Measures to address slippage.* (i) No vessel issued a limited access herring permit may slip catch, as defined at § 648.2, except in the following circumstances:

(A) The vessel operator has determined, and the preponderance of available evidence indicates that, there is a compelling safety reason; or

(B) A mechanical failure, including gear damage, precludes bringing some or all of the catch on board the vessel for inspection; or,

(C) The vessel operator determines that pumping becomes impossible as a result of spiny dogfish clogging the pump intake. The vessel operator shall take reasonable measures, such as strapping and splitting the net, to remove all fish which can be pumped from the net prior to release.

(ii) Vessels may make test tows without pumping catch on board if the net is re-set without releasing its contents provided that all catch from test tows is available to the observer to sample when the next tow is brought on board for sampling.

(iii) If a vessel issued any limited access herring permit slips catch, the vessel operator must report the slippage event on the Atlantic herring daily VMS catch report and indicate the reason for slipping catch. Additionally, the vessel operator must complete and sign a Released Catch Affidavit detailing: The vessel name and permit number; the VTR serial number; where, when, and the reason for slipping catch; the estimated weight of each species brought on board or slipped on that tow. A completed affidavit must be submitted to NMFS within 48 hr of the end of the trip.

(iv) If a vessel issued an All Areas or Areas 2/3 Limited Access Herring permit slips catch for any of the reasons described in paragraph (m)(4)(i) of this section, the vessel operator must move at least 15 nm (27.78 km) from the location of release before deploying any gear again, and must stay at least 15 nm (27.78 km) away from the slippage event location for the remainder of the fishing trip.

(v) If catch is slipped by a vessel issued an All Areas or Areas 2/3 Limited Access Herring permit for any reason not described in paragraph (m)(4)(i) of this section, the vessel operator must immediately terminate the trip and return to port. No fishing activity may occur during the return to port.

(5) Vessels must carry on board a NMFS-approved measuring stick which must be made available to the observer upon request.

* * * * *

■ 5. In § 648.14, paragraphs (r)(1)(ii)(D), (r)(1)(vii)(F), and (r)(2)(xiii) are added and paragraphs (r)(2)(v) through (xii) are revised to read as follows:

§ 648.14 Prohibitions.

* * * * *

(r) * * *

(1) * * *

(ii) * * *

(D) For vessels issued an All Areas or Areas 2/3 Limited Access Herring Permit to begin a declared herring trip to fish for, possess, transfer, or receive herring without fish holds empty of fish as specified at § 648.204(c), unless the vessel has received a waiver to begin a trip with fish in the fish hold.

* * * * *

(vii) * * *

(F) Transit or be in an area that has zero percent sub-ACL available for harvest specified at § 648.201(d) with herring on board, unless such herring were caught in an area or areas with an available sub-ACL specified at § 648.201(d), all fishing gear is stowed and not available for immediate use as defined in § 648.2, and the vessel is issued a vessel permit that authorizes the amount of herring on board for the area where the herring was harvested.

* * * * *

(r) * * *

(2) * * *

(v) Fish with midwater trawl gear in any Northeast Multispecies Closed Area, as defined in § 648.81(a) through (e), without a NMFS-approved observer on board, if the vessel has been issued an Atlantic herring permit.

(vi) Slip or operationally discard catch, as defined at § 648.2, unless for one of the reasons specified at § 648.202(b)(2), if fishing any part of a tow inside the Northeast Multispecies Closed Areas, as defined at § 648.81(a) through (e).

(vii) Fail to immediately leave the Northeast Multispecies Closed Areas and comply with reporting requirements after slipping or operationally discarding catch, as required by § 648.202(b)(4).

(viii) Slip catch, as defined at § 648.2, unless for one of the reasons specified at § 648.11(m)(4)(i).

(ix) For vessels with All Areas or Areas 2/3 Limited Access Herring Permits, fail to move 15 nm (27.78 km), as required by § 648.11(m)(4)(iv) and § 648.202(b)(4)(iv).

(x) For vessels with All Areas or Areas 2/3 Limited Access Herring Permits, fail to immediately return to port, as required by § 648.11(m)(4)(v) and § 648.202(b)(4)(iv).

(xi) Fail to complete, sign, and submit a Released Catch Affidavit if fish are released pursuant to the requirements at § 648.11(m)(4)(iii).

(xii) Fail to report a slippage event on the Atlantic herring daily VMS catch report, as required by § 648.11(m)(4)(iii).

(xiii) Fail to carry on board, or make available to an observer upon request, a NMFS-approved measuring stick, as required by § 648.11(m)(5).

* * * * *

§ 648.80 [Amended]

■ 6. In § 648.80, paragraph (d)(7) is removed.

■ 7. In § 648.200, paragraph (f)(2) is revised to read as follows:

§ 648.200 Specifications.

* * * * *

(f) * * *

(2) *Management Area 2 (South Coastal Area):* All state and Federal waters inclusive of sounds and bays, bounded on the east by 70°00′ W. long. and the outer limit of the U.S. Exclusive Economic Zone; bounded on the north and west by the southern coastline of Cape Cod, Massachusetts, and the coastlines of Rhode Island, Connecticut, New York, New Jersey, Delaware, Maryland, Virginia, and North Carolina; and bounded on the south by a line following the lateral seaward boundary between North Carolina and South Carolina from the coast to the Submerged Lands Act line, approximately 33°48′46.37″ N. lat, 78°29′46.46″ W. long., and then heading due east along 33°48′46.37″ N. lat. to the outer limit of the US Exclusive Economic Zone.

* * * * *

■ 8. In § 648.201, paragraphs (e) and (f) are revised and paragraph (g) is added to read as follows:

§ 648.201 AMs and harvest controls.

* * * * *

(e) A vessel may transit an area that has zero percent sub-ACL available for harvest specified in paragraph (d) of this section with herring on board, provided such herring were caught in an area or areas with sub-ACL available specified in paragraph (d) of this section, that all fishing gear is stowed and not available for immediate use as defined in § 648.2, and the vessel is issued a permit that authorizes the amount of herring on board for the area where the herring was harvested.

(f) Up to 500 mt of the Area 1A sub-ACL shall be allocated for the fixed gear fisheries in Area 1A (weirs and stop seines) that occur west of 67°16.8′ W. long (Cutler, Maine). This set-aside shall be available for harvest by fixed gear within the specified area until November 1 of each fishing year. Any portion of this allocation that has not been utilized by November 1 shall be restored to the sub-ACL allocation for Area 1A.

(g) *Carryover.* Subject to the conditions described in this paragraph (g), unharvested catch in a herring management area in a fishing year (up to 10 percent of that area's sub-ACL) shall be carried over and added to the sub-ACL for that herring management area for the fishing year following the year when total catch is determined. For example, NMFS will determine total catch from Year 1 during Year 2, and will add carryover to the applicable sub-ACL(s) in Year 3. All such carryover shall be based on the herring management area's initial sub-ACL allocation for the fishing year, not the sub-ACL as increased by carryover or decreased by an overage deduction, as specified in paragraph (a)(3) of this section. All herring landed from a herring management area shall count against that area's sub-ACL, as increased by carryover. For example, if 500 mt of herring is added as carryover to a 5,000 mt sub-ACL, catch in that management area would be tracked against a total sub-ACL of 5,500 mt. NMFS shall add sub-ACL carryover only if the ACL, specified consistent with § 648.200(b)(3), for the fishing year in which there is unharvested herring, is not exceeded. The ACL, consistent with § 648.200(b)(3), shall not be increased by carryover specified in this paragraph (g).

■ 9. In § 648.202, paragraphs (b)(2) introductory text, (b)(4) introductory text, and (b)(4)(ii) are revised, and paragraphs (b)(4)(iii) and (iv) are added to read as follows:

§ 648.202 Season and area restrictions.

* * * * *

(b) * * *

(2) No vessel issued an Atlantic herring permit and fishing with midwater trawl gear, when fishing any part of a midwater trawl tow in the Closed Areas, may slip or operationally discard catch, as defined at § 648.2, except in the following circumstances:

* * * * *

(4) If catch is slipped or operational discarded by a vessel, the vessel operator must:

* * * * *

(ii) Complete and sign a Released Catch Affidavit detailing: The vessel name and permit number; the VTR serial number; where, when, and for what reason the catch was released; the estimated weight of each species brought on board or released on that tow. A completed affidavit must be submitted to NMFS within 48 hr of the end of the trip.

(iii) Report slippage events on the Atlantic herring daily VMS catch report and indicate the reason for slipping catch if the vessel was issued a limited access herring permit.

(iv) Comply with the measures to address slippage specified in § 648.11(m)(4)(iv) and (v) if the vessel was issued an All Areas or Areas 2/3 Limited Access Herring Permit.

■ 10. In § 648.204, paragraph (c) is added to read as follows:

§ 648.204 Possession restrictions.

* * * * *

(c) Vessels issued an All Areas or Areas 2/3 Limited Access Herring Permit must have fish holds empty of fish before leaving the dock on any trip declared into the Atlantic herring fishery. After inspection by an authorized officer, a waiver for the requirement to have fish holds empty of fish may be issued to vessels for instances when there are fish in the hold due to a lack of marketability or refrigeration malfunction, provided those fish have been reported by the vessel.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 140703553–5687–01]

RIN 0648–BE29

Fisheries Off West Coast States; Pacific Coast Groundfish Fishery Management Plan; Trawl Rationalization Program; Midwater Trawl Requirements

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

ACTION: Proposed rule; request for comments.

SUMMARY: This proposed rule, if adopted, would clarify the regulatory requirements for vessels using midwater trawl gear in the Pacific Coast Groundfish Fishery Shorebased Individual Fishing Quota Program. This action is needed to eliminate inconsistencies and confusion in the current regulations. For vessels targeting Pacific whiting, the action would clarify that the retention of prohibited and protected species is allowed until landing. The disposition of prohibited and protected species would be specified consistent with the Pacific Coast Groundfish Fishery Management Plan, the Pacific Coast Salmon Fishery Management Plan, and other applicable law.

DATES: Comments on this proposed rule or the Environmental Assessment (EA) supporting the action must be received no later than 5 p.m., local time on September 28, 2015.

ADDRESSES: You may submit comments on this document, identified by NOAA–NMFS–2015–0093, by any of the following methods:

- *Electronic Submissions:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to *www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2015-0093*, click the ''Comment Now!'' icon, complete the required fields, and enter or attach your comments.
- *Mail:* William W. Stelle, Jr., Regional Administrator, West Coast Region, NMFS, 7600 Sand Point Way NE., Seattle, WA 98115–0070; Attn: Becky Renko.

Instructions: Comments sent by any other method, to any other address or Individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (*e.g.,* name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous).

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 William W. Stelle Jr., Regional Administrator, West Coast Region NMFS, 7600 Sand Point Way NE., Seattle, WA 98115–0070 and to OMB by email to *OIRA_Submission@omb.eop.gov,* or fax to (202) 395–7285.

SUPPLEMENTARY INFORMATION: This action would amend the Pacific Coast groundfish fishery regulations to eliminate redundancies and inconsistencies relative to the use of midwater trawl gear in the Shorebased Individual Fishing Quota Program (Shorebased IFQ Program). The action is consistent with policy decisions that the Pacific Fishery Management Council (Council) made during the implementation of Amendment 20 to the Pacific Coast Groundfish Fishery Management Plan (groundfish FMP).

In 2011, a trawl catch share program was implemented under Amendment 20 to the groundfish FMP. The trawl catch share program included the Shorebased IFQ Program, where individual permit holders receive quota pounds (QP) that they can fish for, lease, or sell. Permit holders also receive QP to cover catch of Pacific Halibut.

In anticipation of the trawl catch share program, the groundfish regulations were restructured on October 1, 2010 (75 FR 60868). When the Shorebased IFQ Program was implemented, the midwater Pacific whiting shorebased fishery and the bottom trawl fishery were merged to create a single Shorebased IFQ fishery. Many of the pre-IFQ fishery management measures relating to time and area management were retained in the regulations for use in the Shorebased IFQ Program. However, integrating pre-IFQ regulations with new regulations for the Shorebased IFQ Program resulted in inconsistencies and numerous unclear and confusing management restrictions relative to the use of midwater trawl gear.

Groundfish fishery management includes the use of time and area restrictions. Time and area restrictions affecting the use of midwater trawl gear include: Trawl Rockfish Conservation Areas, Pacific whiting primary seasons, Ocean Salmon Conservation Zones (OSCZs), Bycatch Reduction Areas (BRAs), and Klamath and Columbia River salmon conservation zones. In addition, there are midwater trawl trip limit restrictions for operating shoreward of the 100 fathom (fm) contour in the Eureka area, and a prohibition on night fishing south of 42° north latitude.

Vessel monitoring systems (VMSs) that automatically transmit hourly position reports to NMFS Office of Law Enforcement (OLE) are the primary management tool used to monitor vessel compliance with time and area restrictions. All vessels in the Shorebased IFQ Program are required to have an operational VMS. In addition, each vessel operator is required to submit a declaration report to OLE that allows the vessel's position to be linked to the type of fishing gear being used. In some cases, the declaration also identifies the particular species the vessel is fishing for and the target strategy. For the Shorebased IFQ Program, vessels using midwater trawl may declare either ''limited entry midwater trawl, non-whiting shorebased IFQ'' or ''limited entry midwater trawl, Pacific whiting shorebased IFQ.''

Midwater trawl gear has primarily been used to target Pacific whiting, but can also be used to target other groundfish species. Prior to 2002, when widow rockfish was declared overfished, midwater trawl was used to target widow rockfish, yellowtail rockfish, and, to a lesser extent, chilipepper rockfish. During the rebuilding period for widow rockfish, the access to co-occurring species was constrained by the low widow rockfish Annual Catch Limits (ACLs). Since widow rockfish was declared rebuilt in 2012, there has been increased interest in targeting non-whiting groundfish with midwater trawl gear, particularly in the management area north of 40°10′ north latitude. Since 2011, midwater trawl gear has been used to target Pacific whiting and non-whiting north of 40°10′ north latitude by vessels in the Shorebased IFQ Program. South of 40°10′ north latitude midwater trawling has been allowed year round seaward of the trawl RCAs for all target species.

Groundfish management includes restrictions on the retention of certain non-groundfish species, including prohibited and protected species. Prohibited species include all salmonids, Pacific halibut, and Dungeness crab off Oregon and Washington. Protected species include

marine mammals, seabirds, sea turtles, and species such as green sturgeon and eulachon, which are listed under the Endangered Species Act (ESA). Generally, prohibited species must be returned to the sea as soon as practicable with a minimum of injury. An exception to the retention restrictions may be made for tagged fish, or when retention is authorized by other applicable law. Pacific halibut may be retained until landing by vessels in the Pacific whiting fishery that do not sort the catch at sea only pursuant to NMFS donation regulations. Amendment 10 to the groundfish FMP and Amendment 12 to the Pacific Coast Salmon FMP (salmon FMP) were revised to allow salmon bycatch to be retained until landing in cases where the Council determines it is beneficial to the management of the groundfish and salmon resources. Under a Council and NMFS approved program, salmon must remain a prohibited species; and, at a minimum, the requirements must allow for accurate monitoring of the retained salmon and must not provide incentives for fishers to increase salmon bycatch or allow salmon to reach commercial markets.

From 2007 through 2010, prior to the Shorebased IFQ Program, the Pacific whiting shorebased fishery was composed of vessels landing 10,000 pounds or more of Pacific whiting on a trip and was managed under exempted fishing permits (EFPs). The terms and conditions of the EFPs established ''maximized retention'' provisions where only species longer than 6 feet and minor amounts of operational discards were allowed to be discarded. The EFPs allowed vessels to land catch containing prohibited and protected species. The EFPs issued to first receivers specified handling and disposition measures for prohibited species. In 2011, with implementation of the Shorebased IFQ Program, a maximized retention provision was added to the groundfish regulations. However, the provision did not address the retention of prohibited species other than Pacific halibut, nor did it establish handling and disposition requirements for prohibited species. For consistency with the salmon FMP and Pacific halibut regulations, provisions for the retention and disposition of prohibited species would be added by this rule.

Protected species are species protected under the ESA, the Marine Mammal Protection Act, the Migratory Bird Treaty Act, and Executive Order 13186. A December 2012, section 7 biological opinion for the groundfish fishery included reasonable and prudent measures that require the collection of important biological data on specific protected species. The West Coast Groundfish Observer Program (WCGOP) has sampling protocols for sampling discards at-sea that includes the collection of biological data on marine mammals, seabirds, turtles, eulachon, and green sturgeon. However, protected species in maximized retention landings are not sampled by observers. Therefore, regulatory revisions are necessary to assure that valuable biological data are gathered.

Proposed Regulatory Changes

As noted above, the following changes are intended to revise the regulations consistent with previous actions taken by the Council to implement Amendment 20. This action is needed to eliminate inconsistencies and confusion in the current regulations.

The proposed regulations would revise the definition of Pacific whiting trip consistent with Appendix E of the groundfish FMP, which details the Final Preferred Alternative adopted under Amendment 20, and which is consistent with the Environmental Impact Statement analysis conducted in support Amendment 20. Appendix E defines non-whiting landings as those with less than 50 percent Pacific whiting by weight. Therefore, this proposed rule would define landings with 50 percent or more Pacific whiting by weight as Pacific whiting shorebased IFQ trips.

The current regulations do not have a minimum threshold for the amount of Pacific whiting that must be harvested on a Pacific whiting shorebased IFQ trip. Without a minimum threshold, vessels fishing north of 40°10′ north latitude have been making Pacific whiting shorebased IFQ declarations while targeting both Pacific whiting and non-whiting groundfish. The groundfish regulations include mitigation measures to reduce the take of Chinook salmon that are specific to the targeting of Pacific whiting and that are in some cases contrary to fishing practices for non-whiting species (*e.g.*, a prohibition on night fishing when historically widow rockfish aggregations were targeted at night with midwater trawl gear). Clearly defining the criteria for a Pacific whiting IFQ trip and identifying which time area restrictions apply to all midwater trawl and which time area restrictions apply to the targeting of Pacific whiting will result in regulations that are clear and therefore will benefit both management and the public. The proposed change was discussed by the Council at its November 2014 meeting, and the Council concurred with defining trips with more than 50 percent whiting as Pacific whiting trips.

General definitions at 50 CFR 660.11 would be revised to add a definition for protected species. Adding the definition allows the term to be clearly used relative to the handling and disposition requirements established in the regulations. General prohibitions at 50 CFR 660.12 would be revised to prohibit the retention of protected species except as allowed for vessels on maximized retention trips. In 50 CFR 660.12 and 660.55, pre-IFQ terminology would be revised consistent with the terms established under the IFQ program.

Regulations pertaining to automatic actions in the specification and management measures provision at 50 CFR 660.60 would be updated by this action. Paragraph (c)(3)(i) of § 660.60 would be revised for readability and to clarify how BRAs may be implemented. Pre-IFQ terminology for the Pacific whiting fishery sectors would be revised consistent with the terms established under the IFQ program; an inactive Internet link would be replaced with an active link; an automatic action currently specified in regulation at 50 CFR 660.150(h)(2) would be added to the list of allowed automatic actions; and language would be added to clarify where the effective date for automatic actions is specified. These actions are being taken for consistency between the different subparts of groundfish regulations.

Regulations at 50 CFR 660.60 would be revised to add an allowance for prohibited species retention until landing on maximized retention trips in the Pacific whiting Shorebased IFQ Program. Appendix E of the groundfish FMP indicates that maximized retention is an option for Pacific whiting shorebased IFQ vessels and that Pacific halibut may be retained until landing. The Council originally considered maximized retention for the Shorebased IFQ Program at its June 2008 meeting as elements of the tracking, monitoring, and enforcement structure for ongoing management. In 2008, a maximized retention program had been recommended by the Council for implementation in Amendment 10 to the groundfish FMP prior to the start of an IFQ program. The implementing regulations for Amendment 10 included maximized retention requirements and video monitoring for vessels targeting Pacific whiting in the Pacific whiting shorebased fishery. Because Amendment 20 required full observer coverage and did not provide for video monitoring, the Amendment 10 regulations were never implemented. In late 2010, during the final stages of

implementation of the Shorebased IFQ Program, the public requested and NMFS agreed to provide the maximized retention opportunity that had existed prior to the Shorebased IFQ Program. Previously, maximized retention was not addressed in the regulations, but was defined in the Maximized Retention and Monitoring Program EFPs issued to the Pacific whiting shorebased fishery. This proposed rule would revise the groundfish regulations to include a maximized retention opportunity along with appropriate disposition requirements.

This proposed rule would revise the language explaining the purpose and scope of subpart D at 50 CFR 660.100 for clarity. The regulations at 50 CFR 660.111 contain the trawl definitions. The proposed rule would revise the definitions for Catcher/Processor Coop Program, Mothership Coop Program, Pacific whiting IFQ fishery, Pacific whiting IFQ trip, and Shorebased IFQ Program for clarity. The term Pacific whiting IFQ trip would specify that a qualifying trip must be 50 percent or more Pacific whiting by weight. New definitions for maximized retention and Pacific whiting fishery are being added for clarity.

The trawl fishery prohibitions at 50 CFR 660.112 would be revised to clearly prohibit first receivers from disposing of prohibited and protected species without sorting them from maximized retention landings and to clearly state that all midwater trawl is prohibited outside the Pacific whiting primary season north of 40°10′ north latitude. Redundant regulatory text at 50 CFR 660.112(b)(2)(ii) would be removed. Duplicate language pertaining to the weighing of catch, which is also stated in regulations at 50 CFR 660.130(d), would be removed and only sorting provisions would be retained.

Numerous minor changes would be made throughout the regulations at 50 CFR 660.130 to align the regulations with the terms defined at 50 CFR 660.11 and 660.111 and to revise pre-IFQ terminology to be consistent with the terms established under trawl rationalization. Currently, regulations at 50 CFR 660.130(c)(3) pertain to the use of midwater trawl gear both north and south of 40°10′ north latitude. This rule would add language to clearly state that midwater trawl gear is required for vessels targeting Pacific whiting during the primary seasons north of 40°10′ north latitude, and that midwater trawl gear is allowed for vessel targeting non-whiting species during the Pacific whiting Shorebased IFQ Program primary season. The action would remove a restriction that allows midwater trawl to only be used by vessels participating in the Pacific whiting Shorebased IFQ fishery that is stated at 50 CFR 660.130(c)(3) and repeated at 50 CFR 660.130(c)(4)(i)(F). These changes would allow vessels using midwater trawl gear north of 40°10′ north latitude to declare either ''limited entry midwater trawl, non-whiting shorebased IFQ'' or ''limited entry midwater trawl, Pacific whiting shorebased IFQ'' consistent with the target strategy.

North of 40°10′ north latitude vessels are allowed to carry multiple types of midwater gear, but may only declare one target strategy (whiting or non-whiting) on a trip. The regulations at 50 CFR 660.130(c)(4) would be revised for clarity. Because all midwater trawl gears have similar closed area restrictions, carrying multiple types of midwater trawl gear is not expected to affect enforcement of the closed areas. The fishery restriction at 50 CFR 660.130(c)(4)(i)(F) that only allows midwater trawl gear to be used in the Pacific whiting fishery would be removed.

The proposed rule would remove redundant regulatory text at 50 CFR 660.130(d)(i). Duplicate language pertaining to the sorting of catch, which is the same requirement stated in regulations at 50 CFR 660.112(b)(2)(ii), would be removed. Because the paragraph addresses the weighing of catch, language specific to weighing would be retained. Regulations pertaining to catch weighing requirements for Pacific whiting IFQ trips at 50 CFR 660.140(j)(2) would be consolidated and revised for clarity.

The regulations at 50 CFR 660.130(e)(4)(i) would be revised to clearly state that vessels using midwater trawl gear, regardless of the target species, are exempt from the trawl RCA restrictions in the area north of 40°10′ north latitude during the dates of the Pacific whiting primary season. This allowance already exists under the current regulations, but is confusing because the regulations may be interpreted as requiring that vessels must declare ''limited entry midwater trawl, Pacific whiting shorebased IFQ'' regardless of the target species. Adding clarity to the regulations and allowing either midwater trawl declaration is expected to reduce confusion for members of industry.

Regulatory language at 50 CFR 660.131(a) and (b) would be revised to remove pre-IFQ terminology for the Pacific whiting sectors, consistent with the terms established under trawl rationalization. The regulations specific to the BRAs would be moved. Trip limit restrictions for midwater trawl seaward of the 100 fm depth contour in the Eureka area are currently found at 50 CFR 660.131(d). For consistency with the other sections of the regulations, the requirement to use the 100 fm line shown on NOAA charts would be replaced with a requirement to use the 100 fm depth contour defined in groundfish regulations at 50 CFR 660.73.

Regulations pertaining to the disposition of prohibited species would be added to the Shorebased IFQ Program regulations at 50 CFR 660.140(g). For vessels on Pacific whiting IFQ trips engaged in maximized retention, clearly stating handling and disposition requirements for prohibited species and protected species would allow for accurate monitoring; would reduce incentives for increased bycatch by clearly stating that protected and prohibited species must not reach commercial markets; and would identify a preference for catch to be handled in a manner that preserves the quality for human consumption for donation to a local food share or other appropriate charitable organizations. The disposition of salmon would be consistent with salmon FMP. The disposition of Pacific halibut and Dungeness crab would be consistent with Pacific halibut regulations and state regulations.

Regulatory language at 50 CFR 660.140(b) is revised for clarity and duplicate language is removed. Retention requirements specified at 50 CFR 660.140(g) are revised such that the maximized retention requirements are clearly stated. New provisions are added at 50 CFR 660.140(g) relative to the disposition of prohibited species and protected species in maximized retention landings. First receivers that accept maximized retention landings would be responsible for following the handling and disposition protocols and for maintaining records of the disposition. Under EFPs, the vessels abandoned prohibited species to the state of landing, and each state had agreements with the first receivers and coordinated the donation or disposal of the prohibited species. The states no longer have resources to coordinate such activity. Under the IFQ program, first receivers are licensed to process IFQ catch. It is therefore reasonable for each first receiver who accepts maximized retention landings to be responsible for the disposition of the prohibited and protected species.

Classification

NMFS has made a preliminary determination that the proposed action

is consistent with groundfish FMP, the MSA, and other applicable law. In making its final determination, NMFS will take into account the complete record, including the data, views, and comments received during the comment period. The EA is available for public comment (See **ADDRESSES**) and is available on line at *www.westcoast.fisheries.noaa.gov/publications/nepa/groundfish/groundfish_nepa_documents.html.*

An environmental assessment (EA) was prepared for this action. The EA includes socio-economic information that was used to prepare the RIR and IRFA. The EA is available on the Council's Web site at *www.pcouncil.org/.* This action also announces a public comment period on the EA.

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

An initial regulatory flexibility analysis (IRFA) was prepared, as required by section 603 of the Regulatory Flexibility Act (RFA). The IRFA describes the economic impact this proposed rule, if adopted, would have on small entities. A description of the action, why it is being considered, and the legal basis for this action are contained at the beginning of this section in the preamble and in the **SUMMARY** section of the preamble. A copy of the IRFA is available from NMFS (see **ADDRESSES**). Under the RFA, the term ''small entities'' includes small businesses, small organizations, and small governmental jurisdictions. The Small Business Administration (SBA) has established size criteria for all major industry sectors in the United States, including fish harvesting and fish processing businesses. A business involved in fish harvesting is a small business if it is independently owned and operated and not dominant in its field of operation (including its affiliates) and if it has combined annual receipts not in excess of $20.5 million (previously $19 million) for all its affiliated operations worldwide. For marinas and charter/party boats, a small business is one with annual receipts not in excess of $7.5 million (previously $7 million). For purposes of rulemaking, NMFS is also applying the $20.5 million standard to catcher/processors because they are involved in the commercial harvest of finfish. A seafood processor is a small business if it is independently owned and operated, not dominant in its field of operation, and employs 500 or fewer persons on a full time, part time, temporary, or other basis, at all its affiliated operations worldwide. A wholesale business servicing the fishing industry is a small business if it employs 100 or fewer persons on a full time, part time, temporary, or other basis, at all its affiliated operations worldwide. A small organization is any nonprofit enterprise that is independently owned and operated and is not dominant in its field. A small governmental jurisdiction is a government of cities, counties, towns, townships, villages, school districts, or special districts with populations of less than 50,000.

NMFS is issuing this proposed rule to modify midwater trawl restrictions for vessels participating in the Shorebased IFQ Program under the authority of the groundfish FMP and the Magnuson-Stevens Act. The proposed rule would amend the regulations to remove redundancies and inconsistencies relative to the use of midwater trawl gear, and would add provisions to fully implement ''maximized retention'' allowances for vessels targeting Pacific whiting. Maximized retention encourages full retention of all catch while recognizing that minor discard events may occur. Two alternatives, each with sub-options, are being considered.

Alternative 1—No Action

- North of 40°10′ north latitude midwater trawl gear may be used by vessels with a ''Limited entry midwater trawl, Pacific whiting shorebased IFQ'' declaration after the start of the primary season. Vessels may use midwater trawl gear to target Pacific whiting and non-whiting if the vessel also fishes in the Pacific whiting fishery.
- There is no requirement to target or land Pacific whiting on a Pacific whiting IFQ trip.
- Vessels with a ''Limited entry midwater trawl, Pacific whiting shorebased IFQ'' declaration may fish within the RCAs after the start of the primary season.
- Other than Pacific Halibut, prohibited species and protected species retention until landing is prohibited.
- Vessels North of 40°10′ north latitude may carry multiple types of midwater gear and both whiting and non-whiting target strategies are allowed on the same trip, however the vessel must have a valid ''Limited entry midwater trawl, Pacific whiting shorebased IFQ'' declaration.

Alternative 2 (Preferred)—Eliminate Redundancies and Inconsistencies in Regulations Regarding the Use of Midwater Trawl Gear

- Midwater trawl gear will be allowed for all target species with a valid declaration for either ''limited entry midwater trawl, non-whiting shorebased IFQ'' or ''limited entry midwater trawl, Pacific whiting shorebased IFQ.'' Non-whiting vessels would not be obligated to also target Pacific whiting.
- A Pacific whiting IFQ trip must be 50 percent or more whiting by weight at landing.
- Midwater trawl gear will be allowed within the trawl RCAs and EFH conservation areas for all target species.
- For vessels targeting Pacific whiting on ''maximized retention'' trips, prohibited and protected species must be retained until landing.
- The disposition of salmon would be specified such that it is consistent with salmon FMP.
- The disposition of Pacific halibut and Dungeness crab would be specified so they are consistent with Pacific halibut regulations and state regulations.
- The disposition of protected species would be consistent with the current biological opinions.
- North of 40°10′ north latitude, vessels will be allowed to carry multiple types of midwater gear, but:

Sub-option A (preferred): Allow only one target strategy (whiting or non-whiting) on a trip.

Sub-option B: Allow both whiting and non-whiting target strategies on the same trip. However, ''maximized retention'' would not be allowed if the landed catch was greater than 50 percent non-whiting species.

Under No Action, it is unclear whether vessels using midwater trawl north of 40°10′ north latitude must submit a declaration for ''limited entry midwater trawl, Pacific whiting shorebased IFQ'' even if they intend to target non-whiting species. Alternative 2 results in a low positive impact over No Action as it removes the prohibition that restricts midwater trawl to the Pacific whiting fishery north of 40°10′ north latitude and allows for the use of either midwater trawl declaration. Alternative 2 would improve tracking of activity relative to time/area restrictions and the specific target strategy. Aligning the declaration with the activity could allow for a more surgical management response that can be clearly understood by harvesters.

Under No Action, Pacific whiting trips would not be defined. Alternative 2 establishes criteria for a Pacific whiting trip as being landings that are 50 percent or more Pacific whiting by weight at landing. Alternative 2 is not expected to have a measureable effect on the vast majority of midwater trawl trips targeting Pacific whiting. Only a small number of vessels may have

reduced flexibility under Alternative 2 sub-option A (one target strategy per trip) because a vessel operator cannot change the target fishing strategy after they leave port. However, sub-option A is most similar to how harvesters currently operate. Either sub-option provides clarity and eliminates inconsistencies, making the regulations less complicated for harvesters and easier to enforce. Revising the groundfish regulations for clarity under Alternative 2 is expected to provide more equitable opportunity for non-whiting vessels north of 40°10' north latitude as it is clear they do not need to also fish for Pacific whiting.

Time/Area restrictions under No Action include Rockfish Conservation Areas (RCAs), Klamath River conservation zone, Columbia River conservation zone, Ocean Salmon Conservation Zones (OSCZs), Bycatch Reduction Areas (BRAs), the Eureka area 100 fm restriction, prohibition on night fishing south of 42°00′ north latitude and the Pacific whiting primary seasons. These restrictions were initially implemented to reduce incidental catch of Chinook salmon in the Pacific whiting fisheries. The Klamath River conservation zone, Columbia River conservation zone, OSCZs, and the prohibition on night fishing are specific to the targeting of Pacific whiting and would remain linked to the targeting of whiting under both No Action and Alternative 2. The impacts of No Action on the closed areas are neutral as no changes would be made to reduce the confusion by fishermen or enforcement about prohibited or allowed activities. Because widow rockfish were historically targeted at night with low bycatch, Alternative 2 revisions would clearly state that the prohibition on night fishing does not apply to non-whiting targeting. BRAs have evolved since their initial implementation in 2007 when they applied specifically to the targeting of whiting. Since 2013, the BRAs have been considered as a tool for use in the Pacific whiting sectors (all midwater trawl). Alternative 2 revisions would clearly state that the BRAs and RCA exemptions apply to all midwater trawl. Providing clarification on how time/area restrictions relate to specific target fishing activity under Alternative 2 is expected to reduce regulatory complexity and eliminate contradictory regulations. Changes under Alternative 2 are expected to be beneficial to the harvesters, managers, and enforcement.

Maximized retention is allowed under No Action. However, supporting regulations would not be added to reduce confusion regarding the landing of maximized retention catch for non-whiting target strategies. Provisions would not be added to allow the retention of prohibited species under No Action. The socio-economic impacts of managing under No Action are neutral, providing restrictions on the retention of prohibited species continue to be unenforced. Alternative 2 would revise the regulations to clearly state that maximized retention would only be allowed for trips targeting Pacific whiting, consistent with the provisions of Amendment 20. Because of relatively low bycatch by vessels targeting Pacific whiting, maximized retention allows sorting to be delayed until landing. Because whiting flesh deteriorates rapidly once the fish are caught, whiting must be minimally handled and immediately chilled to maintain the flesh quality. Allowing Pacific whiting shoreside vessels to retain unsorted catch benefits harvesters by enabling whiting quality to be maintained. Under Alternative 2, provisions would be added to allow Pacific whiting vessels to retain otherwise prohibited species until landing. Non-whiting vessels would have to continue to sort prohibited and protected species at sea. Some non-whiting landings under maximized retention have had a greater variety in bycatch than is typically seen in Pacific whiting landings and have been landed at first receivers with only one catch monitor. Long offloads associated with sorting and weighing non-whiting maximized retention catch has resulted in offload time exceeding the catch monitor's allowed work hours in a 24 hour period. Alternative 2 would also provide clarification on the disposition of protected species for maximized retention landings. Revisions to the maximized retention requirements under Alternative 2 are expected to reduce regulatory complexity and eliminate contradictory regulations, benefiting harvesters.

Under No Action, Pacific whiting trips would continue to be undefined and no protocols for handling or disposing of prohibited or protected species would be defined. The impacts of No Action are neutral, as first receivers would use current methods to identify maximized retention deliveries and determine how to handle and dispose of prohibited and protected species. Defining Pacific whiting trips under Alternative 2 should make it easier for first receivers/processors to identify which trips are classified as ''maximized retention'' such that it would be more clear which groundfish regulations apply. Alternative 2 specifies handling and disposition of prohibited and protected species. Clear protocols for the disposition of prohibited catch should reduce complexity and confusion for first receivers/processors. Currently, provisions that affect the disposition of prohibited or protected species exist in various federal regulations, non-groundfish FMPs, and ESA biological opinions. Clarifying these provisions in the groundfish regulations would reduce complexity in the requirements for disposition and handling of maximized retention catch and result in a low positive benefit to first receivers/processors. First receivers are currently taking salmon and grinding and processing the fish into fish meal and/or providing edible fish to food pantries, soup kitchens, or other non-profit organizations. In some states, state agencies have assisted in the transfer of fish to food banks, but this assistance is being withdrawn. However, NMFS concludes that these new regulations do not impose any significant burden on first receivers as they are consistent with current first receiver practices and with prior practices established under the 2007–2010 whiting EFPs.

This action would clarify the regulatory requirements for vessels using midwater trawl gear in the Pacific Coast Groundfish Fishery Shorebased Individual Fishery Quota Program. This action is needed to eliminate inconsistencies and confusion in the current regulations. For vessels targeting Pacific whiting, the action would clarify that the retention of prohibited and protected species is allowed until landing. The disposition of prohibited and protected species would be specified consistent with the Pacific Coast Groundfish Fishery Management Plan, the Pacific Coast Salmon Fishery Management Plan and other applicable law. As this rule is about clarifying the regulations, we do not believe that this rule will have a significant impact when comparing small versus large businesses in terms of disproportionality and profitability given available information. Nonetheless, NMFS has prepared this IRFA. Through the rulemaking process associated with this action, we are requesting comments on this conclusion.

This proposed rule contains a collection-of-information requirement subject to review and approval by OMB under the Paperwork Reduction Act (PRA). This requirement has been submitted to OMB for approval as revisions to OMB collection 0648–0619. Relative to OMB collection 0648–0619 the public reporting burden for first receivers to retain records showing the disposition of prohibited and protected

species is estimated to average 1 minute per response.

Public comment is sought regarding: Whether this proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; the accuracy of the burden estimate; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information, including through the use of automated collection techniques or other forms of information technology. Send comments on these or any other aspects of the collection of information to (enter office name) at the **ADDRESSES** above, and by email to *OIRA_Submission@omb.eop.gov* or fax to (202) 395–7285.

Notwithstanding any other provision of the law, no person is required to respond to, and no person shall be subject to 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.

Pursuant to Executive Order 13175, this proposed rule eliminated redundancies and inconsistencies with state law relative to the use of midwater trawl gear and does not have a direct effect on tribes. The action is consistent with policy decisions that the Council made during the implementation of Amendment 20 to the Pacific Coast Groundfish Fishery Management Plan which was developed after meaningful consultation and collaboration with tribal officials from the area covered by the groundfish FMP. Under the Magnuson-Stevens Act at 16 U.S.C. 1852(b)(5), one of the voting members of the Pacific Council must be a representative of an Indian tribe with federally recognized fishing rights from the area of the Council's jurisdiction. The proposed regulations do not have a direct effect on the tribes.

List of Subjects in 50 CFR Part 660

Fisheries, Fishing, and Indian fisheries.

Dated: August 17, 2015.

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 660 is proposed to be 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. In § 660.11, add, in alphabetical order, a definition for ''Protected species'' and revise the definition of ''Trawl fishery'' to read as follows:

§ 660.11 General definitions.

* * * * *

Protected species means those species, other than prohibited species, that are protected under Federal law, including species listed under the Endangered Species Act, marine mammals protected under the Marine Mammal Protection Act, and bird species protected under the Migratory Bird Treaty Act. Species that are both protected and prohibited are considered prohibited species for purposes of this part.

* * * * *

Trawl fishery or Limited entry trawl fishery means the groundfish limited entry trawl fishery referred to in subparts C and D, which is composed of vessels registered to a limited entry permit with a trawl endorsement and vessels registered to an MS permit. The trawl fishery is comprised of the following sectors: Catcher/Processor, Mothership, and Shorebased IFQ. The trawl fishery does not include the non-groundfish trawl fisheries, which are all within the open access fishery.

* * * * *

■ 3. In § 660.12, revise paragraphs (a)(1), (10) and (11) to read as follows:

§ 660.12 General groundfish prohibitions.

* * * * *

(a) * * *

(1) Retain any prohibited or protected species caught by means of fishing gear authorized under this subpart, unless otherwise authorized. Except as otherwise authorized, prohibited and protected species must be returned to the sea as soon as practicable with a minimum of injury when caught and brought on board.

* * * * *

(10) Transfer fish to another vessel at sea unless the vessel transferring fish is participating in the MS Coop or C/P Coop Programs.

(11) Fail to remove all fish from the vessel at landing (defined in § 660.11) and prior to beginning a new fishing trip, except for processing vessels participating in the MS Coop or C/P Coop Programs.

* * * * *

■ 4. In § 660.55, revise paragraphs (c)(1)(i)(A) through (C) to read as follows:

§ 660.55 Allocations.

* * * * *

(c) * * *

(1) * * *

(i) * * *

(A) *Darkblotched rockfish.* Allocate 9 percent or 25 mt, whichever is greater, of the total trawl allocation of darkblotched rockfish to the Pacific whiting fishery (MS sector, C/P sector, and Shorebased IFQ sectors). The distribution of allocation of darkblotched to each of these sectors will be done pro rata relative to the sector's allocation of the commercial harvest guideline for Pacific whiting. After deducting allocations for the Pacific whiting fishery, the remaining trawl allocation is allocated to the Shorebased IFQ sector.

(B) *Pacific Ocean Perch (POP).* Allocate 17 percent or 30 mt, whichever is greater, of the total trawl allocation of POP to the Pacific whiting fishery (MS sector, C/P sector, and Shorebased IFQ sector). The distribution of POP to each sector will be done pro rata relative to the sector's allocation of the commercial harvest guideline for Pacific whiting. After deducting allocations for the Pacific whiting fishery, the remaining trawl allocation is allocated to Shorebased IFQ sector.

(C) *Widow rockfish.* Allocate 52 percent of the total trawl allocation of widow rockfish to the Pacific whiting fishery if the stock is under rebuilding, or 10 percent of the total trawl allocation or 500 mt of the trawl allocation, whichever is greater, if the stock is rebuilt. The distribution of the trawl allocation of widow to each sector will be done pro rata relative to the sector's allocation of the commercial harvest guideline for Pacific whiting. After deducting allocations for the Pacific whiting sectors, the remaining trawl allocation is allocated to Shorebased IFQ sector.

* * * * *

■ 5. In § 660.60, revise paragraphs (c)(3)(i) and (d) and remove and reserve paragraph (e) to read as follows:

§ 660.60 Specifications and management measures.

* * * * *

(c) * * *

(3) * * *

(i) *Depth-based management measures.* Depth-based management measures, particularly closed areas known as Groundfish Conservation Areas, may be implemented in any fishery sector that takes groundfish directly or incidentally. Depth-based management measures are set using specific boundary lines that approximate depth contours with latitude/longitude waypoints found at §§ 660.70 through 660.74. Depth-based

management measures and closed areas may be used for the following conservation objectives: To protect and rebuild overfished stocks; to prevent the overfishing of any groundfish species by minimizing the direct or incidental catch of that species; or to minimize the incidental harvest of any protected or prohibited species taken in the groundfish fishery. Depth-based management measures and closed areas may be used for the following economic objectives: To extend the fishing season; for the commercial fisheries, to minimize disruption of traditional fishing and marketing patterns; for the recreational fisheries, to spread the available catch over a large number of anglers; to discourage target fishing while allowing small incidental catches to be landed; and to allow small fisheries to operate outside the normal season. BRAs may be implemented as an automatic action in the Pacific whiting fishery consistent with paragraph (d)(1) of this section. BRAs may be implemented as a routine action for vessels using midwater groundfish trawl gear consistent with the purposes for implementing depth-based management and the setting of closed areas as described in this paragraph.

* * * * *

(d) *Automatic actions.* Automatic management actions may be initiated by the NMFS Regional Administrator or designee without prior public notice, opportunity to comment, or a Council meeting. These actions are nondiscretionary, and the impacts must have been taken into account prior to the action. Unless otherwise stated, a single notice will be published in the **Federal Register** making the action effective if good cause exists under the APA to waive notice and comment.

(1) Automatic actions are used to:

(i) Close the MS or C/P sector when that sector's Pacific whiting allocation is reached, or is projected to be reached. The MS sector non-coop fishery may be closed by automatic action when the Pacific whiting or non-whiting allocation to the non-coop fishery has been reached or is projected to be reached.

(ii) Close one or both MS and C/P sectors when a non-whiting groundfish species with allocations is reached or projected to be reached.

(iii) Reapportion unused allocations of non-whiting groundfish species between the MS and C/P sectors.

(iv) Reapportion the unused portion of the tribal allocation of Pacific whiting to the MS sector, C/P sector, and Shorebased IFQ sector.

(v) Implement the Ocean Salmon Conservation Zone, described at § 660.131, when NMFS projects the Pacific whiting fishery and the tribal whiting fishery combined will take in excess of 11,000 Chinook within a calendar year.

(vi) Implement BRAs, described at § 660.131, when NMFS projects a sector-specific allocation will be reached before the sector's whiting allocation.

(2) Automatic actions are effective when actual notice is sent by NMFS identifying the effective time and date. Actual notice to fishers and processors will be by email, Internet *www.westcoast.fisheries.noaa.gov/publications/fishery_management/groundfish/public_notices/recent_public_notices.html*), phone, letter, or press release. Allocation reapportionments will be followed by publication in the **Federal Register**, in which public comment will be sought for a reasonable period of time thereafter.

(e) [Reserved]

* * * * *

■ 6. In § 660.100, revise the first sentence of the introductory paragraph to read as follows:

§ 660.100 Purpose and scope.

This subpart applies to the Pacific coast groundfish limited entry trawl fishery. * * *

■ 7. In § 660.111:

■ a. Revise the definition for ''Catcher/Processor Coop Program or C/P Coop Program'';

■ b. Add a definition for ''Maximized retention'';

■ c. Revise the definition for ''Mothership Coop Program or MS Coop Program'';

■ d. Add a definition for ''Pacific whiting fishery''; and

■ e. Revise the definitions for ''Pacific whiting IFQ Fishery,'' ''Pacific whiting IFQ trip,'' and ''Shorebased IFQ Program,'' in alphabetical order to read as follows:

§ 660.111 Trawl fishery—definitions.

* * * * *

Catcher/Processor (C/P) Coop Program or C/P sector, refers to the fishery described at § 660.160, subpart D. The C/P Coop Program is composed of vessels registered to a limited entry permit with a C/P endorsement and a valid declaration for limited entry, midwater trawl, Pacific whiting catcher/processor sector.

* * * * *

Maximized retention means a vessel retains all catch from a trip until landing, subject to the specifications of this subpart.

* * * * *

Mothership (MS) Coop Program or MS sector refers to the fishery described at § 660.150, subpart D, and includes both the coop and non-coop fisheries. The MS Coop Program is composed of motherships with MS permits and catcher vessels registered to a limited entry permit with an MS/CV endorsement and a valid declaration for limited entry, midwater trawl, Pacific whiting mothership sector. The MS Coop Program also includes vessels registered to a limited entry permit without an MS/CV endorsement if the vessel is authorized to harvest the MS sector's allocation and has a valid declaration for limited entry, midwater trawl, Pacific whiting mothership sector.

* * * * *

Pacific whiting fishery refers to the Pacific whiting primary season fisheries described at § 660.131. The Pacific whiting fishery is composed of vessels participating in the C/P Coop Program, the MS Coop Program, or the Pacific whiting IFQ fishery.

Pacific whiting IFQ fishery is composed of vessels on Pacific whiting IFQ trips.

Pacific whiting IFQ trip means a trip in which a vessel uses midwater groundfish trawl gear during the dates of the Pacific whiting primary season to target Pacific whiting, and Pacific whiting constitutes 50 percent or more of the catch by weight at landing as reported on the state landing receipt. Vessels on Pacific whiting IFQ trips must have a valid declaration for limited entry midwater trawl, Pacific whiting shorebased IFQ.

* * * * *

Shorebased IFQ Program or Shorebased IFQ sector, refers to the fishery described at § 660.140, subpart D, and includes all vessels on IFQ trips.

* * * * *

■ 8. In § 660.112, revise paragraph (a)(2), paragraphs (b)(1)(viii) through (x), and (b)(2)(ii) to read as follows:

§ 660.112 Trawl fishery—prohibitions.

* * * * *

(a) * * *

(2) *Sorting, retention, and disposition.*

(i) Fail to sort, retain, discard, or dispose of catch consistent with the requirements specified at §§ 660.130(d), 660.140 (b)(2)(iii) and (viii), 660.140(g), and 660.140(j)(2).

(ii) Fail to sort, retain, discard, or dispose of prohibited and protected species from maximized retention landings consistent with the requirements specified at § 660.140(g)(3).

(iii) Retain for personal use or allow to reach commercial markets any part of any prohibited or protected species.

* * * * *

(b) * * *

(1) * * *

(viii) Fish on a Pacific whiting IFQ trip with a gear other than midwater groundfish trawl gear.

(ix) Fish on a Pacific whiting IFQ trip without a valid declaration for limited entry midwater trawl, Pacific whiting shorebased IFQ.

(x) Use midwater groundfish trawl gear Pacific whiting IFQ fishery primary season dates as specified at § 660.131(b).

* * * * *

(2) * * *

(ii) Fail to sort or dispose of catch received from an IFQ trip in accordance with the requirements of §§ 660.130(d) and 660.140(g)(3).

* * * * *

■ 9. In § 660.130:

■ a. Revise paragraphs (a), (c)(3), and (c)(4)(i)(A) through (E);

■ b. Remove paragraph (c)(4)(i)(F);

■ c. Revise paragraphs (d)(2)(i) and (3), paragraph (e) introductory text, and paragraphs (e)(4)(i) and (ii); and

■ d. Add paragraphs (e)(6) through (7) to read as follows:

§ 660.130 Trawl fishery—management measures.

(a) *General.* This section applies to the limited entry trawl fishery. Most species taken in the limited entry trawl fishery will be managed with quotas (see § 660.140), allocations or set-asides (see § 660.150 or § 660.160), or cumulative trip limits (see trip limits in Tables 1 (North) and 1 (South) of this subpart), size limits (see § 660.60 (h)(5), subpart C), seasons (see Pacific whiting at § 660.131(b), subpart D), gear restrictions (see paragraph (b) of this section) and closed areas (see paragraph (e) of this section and §§ 660.70 through 660.79, subpart C). The limited entry trawl fishery has gear requirements and harvest limits that differ by the type of groundfish trawl gear on board and the area fished. Groundfish vessels operating south of Point Conception must adhere to CCA restrictions (see paragraph (e)(1) of this section and § 660.70, subpart C). The trip limits in Tables 1 (North) and 1 (South) of this subpart applies to vessels participating in the limited entry trawl fishery and may not be exceeded. Federal commercial groundfish regulations are not intended to supersede any more restrictive state commercial groundfish regulations relating to federally-managed groundfish.

* * * * *

(c) * * *

(3) *Fishing with midwater groundfish trawl gear.*

(i) North of 40°10′ N. lat., midwater groundfish trawl gear is required for Pacific whiting fishery vessels; midwater groundfish trawl gear is allowed for vessels targeting non-whiting species during the Pacific whiting primary season for the Pacific whiting IFQ fishery. Also see restrictions on the use of midwater groundfish trawl gear within the RCAs north of 40°10′ N. lat. at § 660.130(e)(4)(i).

(ii) South of 40°10′ N. lat., midwater groundfish trawl gear is prohibited shoreward of the RCA boundaries and permitted seaward of the RCA boundaries.

(4) * * *

(i) * * *

(A) A vessel may not have both groundfish trawl gear and non-groundfish trawl gear onboard simultaneously. A vessel may not have both bottom groundfish trawl gear and midwater groundfish trawl gear onboard simultaneously. A vessel may have more than one type of limited entry bottom trawl gear on board, either simultaneously or successively, during a cumulative limit period. A vessel may have more than one type of midwater groundfish trawl gear on board, either simultaneously or successively, during a cumulative limit period.

(B) If a vessel fishes exclusively with large or small footrope trawl gear during an entire cumulative limit period, the vessel is subject to the small or large footrope trawl gear cumulative limits and that vessel must fish seaward of the RCA boundaries during that limit period.

(C) If a vessel fishes exclusively with selective flatfish trawl gear during an entire cumulative limit period, then the vessel is subject to the selective flatfish trawl gear-cumulative limits during that limit period, regardless of whether the vessel is fishing shoreward or seaward of the RCA boundaries.

(D) If more than one type of bottom groundfish trawl gear (selective flatfish, large footrope, or small footrope) is on board, either simultaneously or successively, at any time during a cumulative limit period, then the most restrictive cumulative limit associated with the bottom groundfish trawl gear on board during that cumulative limit period applies for the entire cumulative limit period, regardless of whether the vessel is fishing shoreward or seaward of the RCA.

(E) If a vessel fishes both north and south of 40°10′ N. lat. with any type of small footrope gear onboard the vessel at any time during the cumulative limit period, the most restrictive trip limit associated with the gear on board applies for that trip and will count toward the cumulative trip limit for that gear (See crossover provisions at § 660.120.)

* * * * *

(d) * * *

(2) * * *

(i) *First receivers.* Fish landed at IFQ first receivers (including shoreside processing facilities and buying stations that intend to transport catch for processing elsewhere) must be sorted, prior to first weighing after offloading from the vessel and prior to transport away from the point of landing, with the following exception: Catch from a Pacific whiting IFQ trip may be sorted after weighing as specified at § 660.140(j)(2).

* * * * *

(3) *Sorting requirements for the MS Coop and the C/P Coop Programs.*

(i) Processing vessels in the MS and C/P Coop Programs may use a bulk weighing scale in compliance with the equipment requirement at § 660.15(b) to derive an accurate total catch weight prior to sorting. Immediately following weighing of the total catch, the catch must be sorted to the species groups specified in paragraph (d)(1) of this section and all catch of-groundfish and non-groundfish species must be accurately accounted for and the weight of all catch other than a single predominant species deducted from the total catch weight to derive the weight of a single predominant species.

(ii) If sorting occurs on a catcher vessel in the MS Coop Program, the catch must not be discarded from the vessel and the vessel must not mix catch from hauls until the observer has sampled the catch.

(e) *Groundfish conservation areas (GCAs) applicable to trawl vessels.* A GCA, a type of closed area, is a geographic area defined by coordinates expressed in degrees of latitude and longitude. The latitude and longitude coordinates of the GCA boundaries are specified at §§ 660.70 through 660.74. A vessel that is fishing within a GCA listed in this paragraph (e) with trawl gear authorized for use within a GCA may not have any other type of trawl gear on board the vessel. The following GCAs apply to vessels participating in the limited entry trawl fishery. Additional closed areas that specifically apply to vessels using midwater groundfish trawl gear are described at § 660.131(c).

* * * * *

(4) * * *

(i) Operating a vessel with groundfish trawl gear onboard within a trawl RCA is prohibited, except for the purpose of continuous transit, or under the following conditions when the vessel has a valid declaration for the allowed fishing:

(A) Midwater groundfish trawl gear may be used within the RCAs north of 40°10′ N. lat. by vessels targeting Pacific whiting or non-whiting during the applicable Pacific whiting primary season.

(B) Vessels fishing with demersal seine gear between 38° N. lat. and 36° N. lat. shoreward of a boundary line approximating the 100 fm (183 m) depth contour as defined at § 660.73, subpart C, may have groundfish trawl gear onboard.

(ii) Trawl vessels may transit through an applicable GCA, with or without groundfish on board, provided all groundfish trawl gear is stowed either: Below deck; or if the gear cannot readily be moved, in a secured and covered manner, detached from all towing lines, so that it is rendered unusable for fishing; or remaining on deck uncovered if the trawl doors are hung from their stanchions and the net is disconnected from the doors. These restrictions do not apply to vessels allowed to fish within the trawl RCA under paragraph (e)(4)(i) of this section.

* * * * *

(6) *Bycatch reduction areas (BRAs).* Vessels using midwater groundfish trawl gear during the applicable Pacific whiting primary season may be prohibited from fishing shoreward of a boundary line approximating the 75 fm (137 m), 100 fm (183 m) or 150 fm (274 m) depth contours.

(7) *Eureka management area midwater trawl trip limits.* No more than 10,000-lb (4,536 kg) of whiting may be taken and retained, possessed, or landed by a vessel that, at any time during a fishing trip, fished with midwater groundfish trawl gear in the fishery management area shoreward of the 100 fm (183 m) depth contour in the Eureka management area.

■ 10. In § 660.131, revise paragraphs (a), (b)(1), paragraph (b)(2) introductory text, paragraphs (b)(2)(i) and (ii), paragraph (b)(2)(iii) introductory text, paragraph (b)(3) introductory text, paragraph (b)(3)(ii), paragraph (c) introductory text, and paragraphs (c)(4), (d), and (h)(2) to read as follows:

§ 660.131 Pacific whiting fishery management measures.

(a) *General.* This section applies to the MS sector, the C/P sector, the Pacific whiting IFQ fishery, and Shorebased IFQ vessels targeting Pacific whiting under trip limits outside the Pacific whiting primary season.

(b) *Pacific whiting primary seasons and Pacific whiting trip limits.*

(1) *Pacific whiting fishery primary seasons.*

(i) For the Pacific whiting IFQ fishery, the primary season is the period(s) of the large-scale Pacific whiting target fishery conducted after the primary season start date.

(ii) For the C/P sector, the primary season is the period(s) when catching and at-sea processing are allowed (after the season closes, at-sea processing of any fish already on board the processing vessel is allowed to continue).

(iii) For vessels delivering to motherships, the primary season is the period(s) when catching and at-sea processing is allowed for the MS sector (after the season closes, at-sea processing of any fish already on board the processing vessel is allowed to continue).

(2) *Different primary season start dates.* North of 40°30′ N. lat., different primary season starting dates may be established for the C/P Coop Program, the MS Coop Program, and in the Pacific whiting IFQ fishery for vessels delivering to IFQ first receivers north of 42° N. lat. and vessels delivering to IFQ first receivers between 42° and 40°30′ N. lat.

(i) *Procedures.* The Pacific whiting primary seasons north of 40°30′ N. lat. generally will be established according to the procedures of the PCGFMP for developing and implementing harvest specifications and apportionments. The season opening dates remain in effect unless changed.

(ii) *Criteria.* The start of a Pacific whiting primary season may be changed based on a recommendation from the Council and consideration of the following factors, if applicable: Size of the harvest guidelines for whiting and bycatch species; age/size structure of the whiting population; expected harvest of bycatch and prohibited species; availability and stock status of prohibited species; expected participation by catchers and processors; the period between when catcher vessels make annual processor obligations and the start of the fishery; environmental conditions; timing of alternate or competing fisheries; industry agreement; fishing or processing rates; and other relevant information.

(iii) *Primary whiting season start dates and duration.* After the start of a primary season for a sector of the Pacific whiting fishery, the primary season remains open for that sector until the sector allocation of whiting or non-whiting groundfish (with allocations) is reached or projected to be reached and the primary season for that sector is closed by NMFS. The starting dates for the primary seasons are as follows:

* * * * *

(3) *Pacific whiting trip limits.* For Shorebased IFQ Program vessels targeting Pacific whiting outside the primary season, the ''per trip'' limit for whiting is announced in Table 1 of this subpart. The per-trip limit is a routine management measure under § 660.60(c). This trip limit includes any whiting caught shoreward of 100 fm (183 m) in the Eureka management-area. The per-trip limit for other groundfish species are announced in Table 1 (North) and Table 1 (South) of this subpart and apply as follows:

(i) * * *

(ii) If a vessel on a Pacific whiting IFQ trip harvests a groundfish species other than whiting for which there is a midwater trip limit, then that vessel may also harvest up to another footrope-specific limit for that species during any cumulative limit period that overlaps the start or close of the primary season.

(c) *Closed areas.* Vessels fishing during the Pacific whiting primary seasons shall not target Pacific whiting with midwater groundfish trawl gear in the following portions of the fishery management area:

* * * * *

(4) *Bycatch reduction areas (BRAs).* Bycatch reduction area closures specified at § 660.130(e) may be implemented inseason through automatic action when NMFS projects that a Pacific whiting sector will exceed an allocation for a non-whiting groundfish species specified for that sector before the sector's whiting allocation is projected to be reached.

(d) *Eureka management area trip limits.* Trip landing or frequency limits may be established, modified, or removed under § 660.60 or this paragraph, specifying the amount of Pacific whiting that may be taken and retained, possessed, or landed by a vessel that, at any time during a fishing trip, fished in the fishery management area shoreward of the 100 fathom (183 m) contour in the Eureka management area. Unless otherwise specified, no more than 10,000-lb (4,536 kg) of whiting may be taken and retained, possessed, or landed by a vessel that, at any time during a fishing trip, fished in the fishery management area shoreward of the 100 fm (183 m) contour in the Eureka management area.

* * * * *

(h) * * *

(2) The reapportionment of surplus whiting will be made by actual notice under the automatic action authority provided at § 660.60(d)(1).

* * * * *

■ 11. In § 660.140:

■ a. Revise paragraph (a) introductory text;

■ b. Revise paragraphs (b)(2)(i) through (iii); and

■ c. Revise paragraphs (g) and (j)(2)(viii) to read as follows:

§ 660.140 Shorebased IFQ Program.

* * * * *

(a) *General.* The regulations in this section apply to the Shorebased IFQ Program. The Shorebased IFQ Program includes a system of transferable QS for most groundfish species or species groups, IBQ for Pacific halibut, and trip limits or set-asides for the remaining groundfish species or species groups. NMFS will issue a QS permit to eligible participants and will establish a QS account for each QS permit owner to track the amount of QS or IBQ and QP or IBQ pounds owned by that owner. QS permit owners may own QS or IBQ for IFQ species, expressed as a percent of the allocation to the Shorebased IFQ Program for that species. NMFS will issue QP or IBQ pounds to QS permit owners, expressed in pounds, on an annual basis, to be deposited in the corresponding QS account. NMFS will establish a vessel account for each eligible vessel owner participating in the Shorebased IFQ Program, which is independent of the QS permit and QS account. In order to use QP or IBQ pounds, a QS permit owner must transfer the QP or IBQ pounds from the QS account into the vessel account for the vessel to which the QP or IBQ pounds is to be assigned. Harvests of IFQ species may only be delivered to an IFQ first receiver with a first receiver site license. In addition to the requirements of this section, the Shorebased IFQ Program is subject to the following groundfish regulations of subparts C and D:

* * * * *

(b) * * *

(2) * * *

(i) Ensure that all catch removed from a vessel making an IFQ delivery is weighed on a scale or scales meeting the requirements described in § 660.15(c).

(ii) Ensure that all catch is landed, sorted, and weighed in accordance with a valid catch monitoring plan as described in § 660.140(f)(3)(iii).

(iii) Ensure that all catch is sorted, prior to first weighing, as specified at § 660.130(d) and consistent with § 660.140(j)(2)(viii).

* * * * *

(g) *Retention and disposition requirements.*

(1) *General.* Shorebased IFQ Program vessels may discard IFQ species/species groups, provided such discards are accounted for and deducted from QP in the vessel account. With the exception of vessels on Pacific whiting IFQ trips engaged in maximized retention, prohibited and protected species must be discarded at sea; Pacific halibut must be discarded as soon as practicable and the discard mortality must be accounted for and deducted from IBQ pounds in the vessel account. Non-IFQ species and non-groundfish species may be discarded at sea. The sorting of catch, the weighing and discarding of any IBQ and IFQ species, and the retention of IFQ species must be monitored by the observer.

(2) *Maximized retention for Pacific whiting IFQ trips.* Vessels on Pacific whiting IFQ trips may engage in maximized retention. Maximized retention allows for the discard minor operational amounts of catch at sea if the observer has accounted for the discard. Vessels engaged in maximized retention must retain prohibited species until landing. Protected species may be retained until landing except as provided under paragraph (g)(3) of this section. Pacific halibut must be accounted for and deducted from IBQ pounds in the vessel account.

(3) *Disposition of prohibited species and protected species in maximized retention landings.*

(i) *Prohibited species handling and disposition.* To ensure compliance with fishery regulations at 50 CFR part 300, subparts E and F, and part 600, subpart H; with the Pacific Salmon Fishery Management Plan; and with the Pacific Halibut Catch Share Plan; the handling and disposition of all prohibited species in maximized retention landings are the responsibility of the first receiver and must be consistent with the following requirements:

(A) Any prohibited species landed at first receivers must not be transferred, processed, or mixed with another landing until the catch monitor has: Recorded the number and weight of salmon by species; inspected all prohibited species for tags or marks; and, collected biological data, specimens, and genetic samples.

(B) No part of any prohibited species may be retained for personal use by a vessel owner or crew member, or by a first receiver or processing crew member. No part of any prohibited species may be allowed to reach commercial markets.

(C) Prohibited species suitable for human consumption at landing must be handled and stored to preserve the quality. Priority in disposition must be given to the donation to surplus food collection and distribution system operated and established to assist in bringing donated food to nonprofit charitable organizations and individuals for the purpose of reducing hunger and meeting nutritional needs.

(D) The first receiver must report all prohibited species landings on the electronic fish ticket and is responsible for maintaining records verifying the disposition of prohibited species. Records on catch disposition may include, but are not limited to: Receipts from charitable organizations that include the organization's name and amount of catch donated; cargo manifests setting forth the origin, weight, and destination of all prohibited species; or disposal receipts identifying the recipient organization and amount disposed. Any such records must be maintained for a period not less than three years after the date of disposal and such records must be provided to OLE upon request.

(ii) *Protected Species handling and disposition.* All protected species must be abandoned to NMFS or the US Fish and Wildlife Service or disposed of consistent with paragraphs (g)(3)(ii)(A) and (B) of this section. No part of any protected species may be retained for personal use by a vessel owner or crew member, or by a first receiver or processing crew member. No part of any protected species may be allowed to reach commercial markets.

(A) *Eulachon and green sturgeon.* Must be sorted and reported by species on electronic fish tickets and state landing receipts and may not be reported in unspecified categories. Whole body specimens of green sturgeon must be retained, frozen, stored separately by delivery, and labeled with the vessel name, electronic fish ticket number, and date of landing. Arrangements for transferring the specimens must be made by contacting NMFS Southwest Fisheries Science Center at 831–420–3903 within 72 hours after the completion of the offload.

(B) *Seabirds, marine mammals, and sea turtles.* Albatross must reported to the US Fish and Wildlife Service 541–867–4558 extension 237 or 503–231–6179) as soon as possible and directions for surrendering must be followed. Marine mammals and sea turtles must be reported to NMFS as soon as possible (206- 526–6550) and directions for surrendering or disposal must be followed. Whole body specimens must labeled with the vessel name, electronic fish ticket number, and date of landing. Whole body specimens must be kept

frozen or on ice until arrangements for surrendering or disposing are completed. Unless directed otherwise, after reporting is completed, seabirds, marine mammals, and sea turtles may be disposed by incinerating, rendering, composting, or returning the carcasses to sea.

* * * * *

(j) * * *

(2) * * *

(viii) *Pacific whiting IFQ trips.* Immediately following weighing of the total catch and prior to processing or transport away from the point of landing, the catch must be sorted to the species groups specified at § 660.130(d) and all catch other than the target species (groundfish and non groundfish species) must be accurately weighed and the weight of non-target species deducted from the total catch weight to derive the weight of a single predominant species. Catch from a Pacific whiting IFQ trip may be sorted after weighing and the weight of a single predominant species determined by deducting the weight of all other species from the total weight of the landing, provided that:

(A) The unsorted catch is weighed on a bulk weighing scale in compliance with equipment requirements at § 660.15(c);

(B) All catch (groundfish and non-groundfish species) in the landing other than the single predominant species is reweighed on a scale in compliance with equipment requirements at § 660.15(c) and the reweighed catch is deducted from the total weight of the landing;

(C) The catch is sorted to the species groups specified at § 660.130(d) prior to processing or transport away from the point of landing; and

(D) Prohibited species are sorted by species, counted, and weighed.

* * * * *

■ 12. In § 660.405, revise paragraph (a) introductory text to read as follows:

§ 660.405 Prohibitions.

(a) In addition to the general prohibitions specified in § 600.725 of this chapter, it is unlawful for any person to do any of the following, except as otherwise authorized under this part:

* * * * *

[FR Doc. 2015–20751 Filed 8–26–15; 8:45 am]

BILLING CODE 3510–22–P

Notices

Federal Register

Vol. 80, No. 166

Thursday, August 27, 2015

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

August 21, 2015.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments regarding (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques and other forms of information technology.

Comments regarding this information collection received by September 28, 2015 will be considered. Written comments should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), New Executive Office Building, 725 17th Street NW., Washington, DC 20503. Commentors are encouraged to submit their comments to OMB via email to: *OIRA_Submission@omb.eop.gov* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Copies of the submission(s) may be obtained by calling (202) 720–8681.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Forest Service

Title: Understanding Value Trade-Offs Regarding Fire Hazard Reduction Programs in the Wildland-Urban Interface.

OMB Control Number: 0596–0189.

Summary of Collection: The Healthy Forests Restoration Act (P.L. 108–148), improves the ability of the Secretary of Agriculture and the Secretary of the Interior to plan and conduct hazardous fuels reduction projects on National Forest System and Bureau of Land Management Lands. The Forest Service, Bureau of Land Management, Bureau of Indian Affairs, National Park Service, Fish and Wildlife Service, and many State agencies with fire protection responsibilities have undertaken a very ambitious and expensive forest fuels reduction program. The Forest Service (FS) and university researchers will contact recipients of a phone/mail questionnaire to help forest and fire managers understand value trade-offs regarding fire hazard reduction programs in the wildland-urban interface.

Need and Use of the Information: Through the questionnaire, researchers will evaluate the responses of Arizona, Colorado, New Mexico and Texas residents to different scenarios related to fire hazard reduction programs; how residents think the programs presented to them are effective, and calculate how much residents would be willing to pay to implement the alternatives. The collected information will help researchers provide better information to natural resources, forest, and fire managers when they are contemplating the kind and type of fire hazard reduction programs to implement to achieve forest land management planning objectives. Without the information the agencies with fire protection responsibilities will lack the capability to evaluate the general public understanding of proposed fuels reduction projects and programs or their willingness to pay for implementing such programs.

Description of Respondents: Individuals or households.

Number of Respondents: 1,400.

Frequency of Responses: Reporting: Other (One time only).

Total Burden Hours: 703.

Charlene Parker,

Departmental Information Collection Clearance Officer.

[FR Doc. 2015–21197 Filed 8–26–15; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF AGRICULTURE

Forest Service

Sanders Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Sanders Resource Advisory Committee (RAC) will meet in Thompson Falls, Montana. The committee is authorized under the Secure Rural Schools and Community Self-Determination Act (the Act) and operates in compliance with the Federal Advisory Committee Act. The purpose of the committee is to improve collaborative relationships and to provide advice and recommendations to the Forest Service concerning projects and funding consistent with Title II of the Act. Additional RAC information, including the meeting agenda and the meeting summary/minutes can be found at the following Web site: *http://cloudapps-usda-gov.force.com/FSSRS/RAC_Page?id=001t0000002JcwJAAS.*

DATES: The meeting will be held September 24, 2015, at 7:00 p.m.

All RAC meetings are subject to cancellation. For status of meeting prior to attendance, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

ADDRESSES: The meeting will be held at the Sanders County Courthouse, 1111 Main Street Thompson Falls, Montana.

Written comments may be submitted as described under **SUPPLEMENTARY INFORMATION**. All comments, including names and addresses when provided, are placed in the record and are available for public inspection and copying. The public may inspect comments received at the Plains Ranger District, 408 Clayton Plains, Montana. Please call ahead to facilitate entry into the building.

FOR FURTHER INFORMATION CONTACT: John Gubel, Designated Federal Officer, by phone at 406–827–3533 or via email at *jgubel@fs.fed.us.*

Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8:00 a.m. and 8:00 p.m., Eastern Standard Time, Monday through Friday.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is:

1. Review and approve previous meeting minutes;
2. Discuss status of RAC and memberships;
3. Review progress status of approved projects and discuss monitoring;
4. Review project proposals submitted; and
5. Open forum for public discussion.

The meeting is open to the public. The agenda will include time for people to make oral statements of three minutes or less. Individuals wishing to make an oral statement should request in writing by September 1, 2015, to be scheduled on the agenda. Anyone who would like to bring related matters to the attention of the committee may file written statements with the committee staff before or after the meeting. Written comments and requests for time to make oral comments must be sent to Robin Walker, RAC Coordinator, P.O. Box 429, Plains, Montana 59859; by email to *robinmwalker@fs.fed.us,* or via facsimile to 406–826–4358.

Meeting Accommodations: If you are a person requiring reasonable accommodation, please make requests in advance for sign language interpreting, assistive listening devices or other reasonable accommodation for access to the facility or proceedings by contacting the person listed in the section titled **FOR FURTHER INFORMATION CONTACT**. All reasonable accommodation requests are managed on a case by case basis.

Dated: August 19, 2015.

Robin Walker,

Sanders Resource Advisory Committee Coordinator.

[FR Doc. 2015–21104 Filed 8–26–15; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF AGRICULTURE

Forest Service

Sanders Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Sanders Resource Advisory Committee (RAC) will meet in Thompson Falls, Montana. The committee is authorized under the Secure Rural Schools and Community Self-Determination Act (the Act) and operates in compliance with the Federal Advisory Committee Act. The purpose of the committee is to improve collaborative relationships and to provide advice and recommendations to the Forest Service concerning projects and funding consistent with Title II of the Act. Additional RAC information, including the meeting agenda and the meeting summary/minutes can be found at the following Web site: *http://cloudapps-usda-gov.force.com/FSSRS/RAC_Page?id=001t0000002JcwJAAS.*

DATES: The meeting will be held October 8, 2015, at 7:00 p.m.

All RAC meetings are subject to cancellation. For status of meeting prior to attendance, please contact the person listed under **FOR FURTHER INFORMATION CONTACT.**

ADDRESSES: The meeting will be held at the Sanders County Courthouse, 1111 Main Street, Thompson Falls, Montana.

Written comments may be submitted as described under **SUPPLEMENTARY INFORMATION.** All comments, including names and addresses when provided, are placed in the record and are available for public inspection and copying. The public may inspect comments received at the Plains Ranger District, 408 Clayton Plains, Montana. Please call ahead to facilitate entry into the building.

FOR FURTHER INFORMATION CONTACT: John Gubel, Designated Federal Officer, by phone at 406–827–3533 or via email at *jgubel@fs.fed.us.*

Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8:00 a.m. and 8:00 p.m., Eastern Standard Time, Monday through Friday.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is:

1. Review and approve previous meeting minutes;
2. Discuss project proposals and address project specific questions;
3. Discuss project recommendations and rankings;
4. Vote on projects to be recommended for approval; and
5. Open forum for public discussion.

The meeting is open to the public. The agenda will include time for people to make oral statements of three minutes or less. Individuals wishing to make an oral statement should request in writing by October 1, 2015, to be scheduled on the agenda. Anyone who would like to bring related matters to the attention of the committee may file written statements with the committee staff before or after the meeting. Written comments and requests for time for oral comments must be sent to Robin Walker, RAC Coordinator, P.O. Box 429, Plains, Montana 59859; by email to *robinmwalker@fs.fed.us,* or via facsimile to 406–826–4358.

Meeting Accommodations: If you are a person requiring reasonable accommodation, please make requests in advance for sign language interpreting, assistive listening devices or other reasonable accommodation for access to the facility or proceedings by contacting the person listed in the section titled **FOR FURTHER INFORMATION CONTACT**. All reasonable accommodation requests are managed on a case by case basis.

Dated: August 19, 2015.

Robin Walker,

Sander Resource Advisory Committee Coordinator.

[FR Doc. 2015–21105 Filed 8–26–15; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF AGRICULTURE

Forest Service

Deschutes Provinicial Advisory Committee Meeting

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Deschutes Provincial Advisory Committee (RAC) will meet in Bend, Oregon. The committee is authorized under the Secure Rural Schools and Community Self-Determination Act (the Act) and operates in compliance with the Federal Advisory Committee Act. The purpose of the committee is to improve collaborative relationships and to provide advice and recommendations to the Forest Service concerning projects and funding consistent with Title II of the Act. Additional PAC information, including the meeting agenda and the meeting summary/minutes can be found at the following Web site: *http://www.fs.usda.gov/detail/deschutes/workingtogether/advisorycommittees.*

DATES: The meeting will be held on September 29, 2015, from 9 a.m. to 12 p.m.

All PAC meetings are subject to cancellation. For status of meeting prior to attendance, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

ADDRESSES: The meeting will be held at the Deschutes National Forest Headquarters Office, Ponderosa Conference Room, 63095 Deschutes Market Road, Bend, Oregon.

Written comments may be submitted as described under **SUPPLEMENTARY INFORMATION**. All comments, including names and addresses when provided, are placed in the record and are available for public inspection and copying. The public may inspect comments received at Deschutes National Forest Headquarters Office. Please call ahead to facilitate entry into the building.

FOR FURTHER INFORMATION CONTACT: Beth Peer, PAC Coordinator, by phone at 541–383–4769 or via email at *bpeer@fs.fed.us.*

Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8:00 a.m. and 8:00 p.m., Eastern Standard Time, Monday through Friday.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to:

1. Introduce newly appointed committee members;
2. Review the history and accomplishments of the PAC under previous charters;
3. Discuss the goals and objectives of the PAC; and
4. Discuss the expected program of work for the year.

The meeting is open to the public. The agenda will include time for people to make oral statements of three minutes or less. Individuals wishing to make an oral statement should request in writing by September 15, 2015, to be scheduled on the agenda. Anyone who would like to bring related matters to the attention of the committee may file written statements with the committee staff before or after the meeting. Written comments and requests for time to make oral comments must be sent to Beth Peer, Deschutes PAC Coordinator, 63095 Deschutes Market Road, Bend, Oregon, 97701; by email to *bpeer@fs.fed.us,* or via facsimile to 541–383–4755.

Meeting Accommodations: If you are a person requiring reasonable accommodation, please make requests in advance for sign language interpreting, assistive listening devices or other reasonable accommodation for access to the facility or proceedings by contacting the person listed in the section titled **FOR FURTHER INFORMATION CONTACT**. All reasonable accommodation requests are managed on a case by case basis.

Dated: August 17, 2015.

John P. Allen,

Forest Supervisor, Deschutes National Forest.

[FR Doc. 2015–21239 Filed 8–26–15; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF COMMERCE

Bureau of the Census

Census Scientific Advisory Committee

AGENCY: Bureau of the Census, Department of Commerce.

ACTION: Notice of public meeting.

SUMMARY: The Bureau of the Census (Census Bureau) is giving notice of a meeting of the Census Scientific Advisory Committee (C–SAC). The Committee will address policy, research, and technical issues relating to a full range of Census Bureau programs and activities, including communications, decennial, demographic, economic, field operations, geographic, information technology, and statistics. The C–SAC will meet in a plenary session on September 17–18, 2015. Last minute changes to the schedule are possible, which could prevent giving advance public notice of schedule adjustments. Please visit the Census Advisory Committees Web site for the most current meeting agenda at: *http://www.census.gov/cac/.* The meeting will be available via webcast at: *http://www.census.gov/newsroom/census-live.html* or at *http://www.ustream.tv/embed/6504322?wmode=direct.*

DATES: September 17–18, 2015. On September 17, the meeting will begin at approximately 8:30 a.m. and end at approximately 4:15 p.m. On September 18, the meeting will begin at approximately 8:30 a.m. and end at approximately 12:15 p.m.

ADDRESSES: The meeting will be held at the U.S. Census Bureau Auditorium, 4600 Silver Hill Road, Suitland, Maryland 20746.

FOR FURTHER INFORMATION CONTACT: Kim Collier, Assistant Division Chief for Stakeholders, Customer Liaison and Marketing Services Office, *kimberly.l.collier@census.gov,* Department of Commerce, U.S. Census Bureau, Room 8H185, 4600 Silver Hill Road, Washington, DC 20233, telephone 301–763–6590. For TTY callers, please use the Federal Relay Service 1–800–877–8339.

SUPPLEMENTARY INFORMATION: Members of the C–SAC are appointed by the Director, U.S. Census Bureau. The Committee provides scientific and technical expertise, as appropriate, to address Census Bureau program needs and objectives. The Committee has been established in accordance with the Federal Advisory Committee Act (title 5, United States Code, Appendix 2, section 10).

All meetings are open to the public. A brief period will be set aside at the meeting for public comment on September 18. However, individuals with extensive questions or statements must submit them in writing to: *census.national.advisory.committee@census.gov* (subject line ''September 2015 C–SAC Meeting Public Comment''), or by letter submission to the Committee Liaison Officer, Department of Commerce, U.S. Census Bureau, Room 8H185, 4600 Silver Hill Road, Washington, DC 20233.

If you plan to attend the meeting, please register by Tuesday, September 15, 2015. You may access the online registration from the following link: *https://www.regonline.com/csacseptember2015.* Seating is available to the public on a first-come, first-served basis.

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should also be directed to the Committee Liaison Officer as soon as known, and preferably two weeks prior to the meeting.

Due to increased security and for access to the meeting, please call 301–763–9906 upon arrival at the Census Bureau on the day of the meeting. A photo ID must be presented in order to receive your visitor's badge. Visitors are not allowed beyond the first floor.

Topics to be discussed include the following items:

- 2020 Census Update
  - Census Tests
  - Reorganized Census with Integrated Technology (ROCkIT)
  - Census Enterprise Data Collection and Processing Systems (CEDCaP)
- BIG Data
- Census Surveys
  - Demographic Survey Overview
  - 2017 Economic Census
- Working Groups Reports
  - BIG Data
  - ACS Group Quarters
- Software Development Kit for Building Open Data Apps

Dated: August 20, 2015.

John H. Thompson,

Director, Bureau of the Census.

[FR Doc. 2015–21117 Filed 8–26–15; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–27–2015]

Foreign-Trade Zone (FTZ) 154—Baton Rouge, Louisiana; Authorization of Production Activity; Syngenta Crop Protection, LLC; Subzone 154B; (Herbicides and Insecticides), St. Gabriel and Baton Rouge, Louisiana

On April 22, 2015, the Greater Baton Rouge Port Commission, grantee of FTZ 154, submitted a notification of proposed production activity to the Foreign-Trade Zones (FTZ) Board on behalf of Syngenta Crop Protection, LLC, within Subzone 154B, located at sites in St. Gabriel and Baton Rouge, Louisiana.

The notification was processed in accordance with the regulations of the FTZ Board (15 CFR part 400), including notice in the **Federal Register** inviting public comment (80 FR 25277, 05–04–2015). The FTZ Board has determined that no further review of the activity is warranted at this time. The production activity described in the notification is authorized, subject to the FTZ Act and the Board's regulations, including Section 400.14.

Dated: August 20, 2015.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2015–21254 Filed 8–26–15; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–351–842]

Certain Uncoated Paper From Brazil: Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (the ''Department'') preliminarily determines that certain uncoated paper (''uncoated paper'') from Brazil is being, or is likely to be, sold in the United States at less than fair value (''LTFV''), as provided in section 733(b) of the Tariff Act of 1930, as amended (''the Act''). The period of investigation (''POI'') is January 1, 2014, through December 31, 2014. The estimated weighted-average dumping margins of sales at LTFV are shown in the ''Preliminary Determination'' section of this notice. Interested parties are invited to comment on this preliminary determination.

DATES: *Effective Date:* August 27, 2015.

FOR FURTHER INFORMATION CONTACT: Julia Hancock or Paul Walker, AD/CVD Operations, Office V, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–1394 or (202) 482–0413, respectively.

SUPPLEMENTARY INFORMATION: On February 10, 2015, the Department initiated the antidumping duty investigation on uncoated paper from Brazil.[1]

For a complete description of the events that followed the initiation of this investigation, see the Preliminary Decision Memorandum.[2] The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (''ACCESS''). ACCESS is available to registered users at *https://access.trade.gov,* and to all parties in the Central Records Unit, room B8024 of the main Department of Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be found at *http://enforcement.trade.gov/frn/.* The signed Preliminary Decision Memorandum and the electronic version of the Preliminary Decision Memorandum are identical in content.

Scope of the Investigation

The product covered by this investigation is uncoated paper from Brazil. For a full description of the scope of this investigation, *see* the ''Scope of the Investigation,'' in Appendix I.

Scope Comments

Certain interested parties commented on the scope of the investigation as it appeared in the *Initiation Notice.* For a discussion of those comments, *see* the Preliminary Decision Memorandum.[3]

Postponement of Deadline for Preliminary Determination

On May 18, 2015, Petitioners[4] submitted a timely request for a 50-day postponement of the preliminary determination in this investigation pursuant to section 733(c)(1)(A) of the Act and 19 CFR 351.205(e).[5] On June 1, 2015, we postponed the preliminary determination by 50 days.[6] As a result of the postponement, the revised deadline for the preliminary determination of this investigation is now August 19, 2015.

Methodology

The Department is conducting this investigation in accordance with section 731 of the Act. There are two mandatory respondents participating in this investigation, International Paper[7] and Suzano.[8] Export price and constructed export price for these companies, as appropriate, are calculated in accordance with section 772 of the Act. Normal value (''NV'') is calculated in accordance with section 773 of the Act. For a full description of the methodology underlying our preliminary conclusions, *see* the Preliminary Decision Memorandum.

All-Others Rate

Consistent with sections 733(d)(1)(A)(ii) and 735(c)(5) of the Act, the Department also calculated an estimated all-others rate. Section 735(c)(5)(A) of the Act provides that the estimated all-others rate shall be an amount equal to the weighted average of the estimated weighted-average dumping margins established for exporters and producers individually investigated, excluding any zero and *de minimis* margins, and any margins determined entirely under section 776 of the Act.

Specifically, this rate of 37.76 percent is based on a simple average of the

[1] *See Certain Uncoated Paper from Australia, Brazil, the People's Republic of China, Indonesia, and Portugal: Initiation of Less-Than-Fair-Value Investigations,* 80 FR 8608 (February 18, 2015).

[2] *See* Memorandum from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Paul Piquado, Assistant Secretary for Enforcement and Compliance ''Decision Memorandum for the Preliminary Determination in the Antidumping Duty Investigation of Certain Uncoated Paper from Brazil'' (''Preliminary Decision Memorandum''), dated concurrently with and hereby adopted by this notice.

[3] *See also* Memorandum from Erin Begnal, Director, Office III, to Ronald K. Lorentzen, Acting Assistant Secretary for Enforcement and Compliance ''Scope Comments Decision Memorandum for the Preliminary Determinations'' (August 3, 2015).

[4] Petitioners are United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union; Domtar Corporation; Finch Paper LLC; P.H. Glatfelter Company; and Packaging Corporation of America (collectively ''Petitioners'').

[5] *See* Letter to the Secretary of Commerce from Petitioners ''Request For Postponement Of The Preliminary Determination'' (May 18, 2015).

[6] *See Certain Uncoated Paper from Australia, Brazil, the People's Republic of China, Indonesia, and Portugal: Postponement of Preliminary Determinations of Antidumping Duty Investigations,* 80 FR 31017 (June 1, 2015).

[7] International Paper do Brasil Ltda., and International Paper Exportadora Ltda. (collectively ''International Paper'').

[8] Suzano Papel e Celulose S.A./Suzano Pulp and Paper America, Inc. (''Suzano'').

weighted-average margin calculated for each mandatory respondent. Because the Department cannot apply our normal methodology of calculating a weighted-average margin due to requests to protect business-proprietary information, the Department finds this rate to be the best proxy of the actual weighted-average margin determined for these respondents.[9] [10]

Preliminary Determination

The Department preliminarily determines that the following weighted-average dumping margins exist:

Exporter/producer	Weighted-average margin (percent)
International Paper do Brasil Ltda. and International Paper Exportadora Ltda.[11]	42.42
Suzano Papel e Celulose S.A	33.09
All-Others	37.76

Suspension of Liquidation

In accordance with section 733(d)(2) of the Act, we are directing U.S. Customs and Border Protection (''CBP'') to suspend liquidation of all entries of uncoated paper from Brazil, as described in Appendix I of this notice, entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register.**

In accordance with 19 CFR 351.205(d), the Department will instruct CBP to require a cash deposit equal to the preliminary weighted-average amount by which normal value exceeds U.S. price, as indicated in the chart above.[12] These suspension of liquidation instructions will remain in effect until further notice.

Disclosure

We will disclose the calculations performed to interested parties in this proceeding within five days of the date of the announcement of our preliminary determination in accordance with 19 CFR 351.224(b).

Verification

As provided in section 782(i) of the Act and 19 CFR 351.307, we intend to verify information relied upon in making our final determination.

Public Comment

Interested parties are invited to comment on this preliminary determination. Case briefs or other written comments may be submitted to the Assistant Secretary for Enforcement and Compliance no later than seven days after the date on which the final verification report is issued in this proceeding, and rebuttal briefs, limited to issues raised in case briefs, may be submitted no later than five days after the deadline date for case briefs.[13] Pursuant to 19 CFR 351.309(c)(2) and (d)(2), parties who submit case briefs or rebuttal briefs in this proceeding are encouraged to submit with each argument: (1) A statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce. All documents must be filed electronically using ACCESS. An electronically-filed request must be received successfully in its entirety by ACCESS by 5:00 p.m. Eastern Time, within 30 days after the date of publication of this notice.[14] Requests should contain the party's name, address, and telephone number, the number of participants, and a list of the issues to be discussed. If a request for a hearing is made, the Department intends to hold the hearing at the U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230, at a time and date to be determined. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

Postponement of Final Determination and Extension of Provisional Measures

Section 735(a)(2) of the Act provides that a final determination may be postponed until not later than 135 days after the date of the publication of the preliminary determination if, in the event of an affirmative preliminary determination, a request for such postponement is made by exporters who account for a significant proportion of exports of the subject merchandise, or in the event of a negative preliminary determination, a request for such postponement is made by Petitioners. Pursuant to 19 CFR 351.210(e)(2) requests by respondents for postponement of a final antidumping determination must be accompanied by a request for extension of provisional measures from a four-month period to a period not more than six months in duration.

On August 13, 2015, pursuant to 19 CFR 351.210(b) and (e), International Paper requested that, contingent upon an affirmative preliminary determination of sales at LTFV, the Department postpone the final determination and that provisional measures be extended to a period not to exceed six months.[15] In addition, Petitioners requested that the Department postpone its final determination in accordance with 19 CFR 351.210(b)(2)(i).[16]

In accordance with section 735(a)(2)(A) of the Act and 19 CFR 351.210(b)(2)(ii), because (1) our preliminary determination is affirmative; (2) the requesting exporters account for a significant proportion of exports of the subject merchandise; and (3) no compelling reasons for denial exist, we are postponing the final determination and extending the provisional measures from a four-month period to a period not greater than six months. Accordingly, we will make our final determination no later than 135 days after the date of publication of this preliminary determination, pursuant to section 735(a)(2) of the Act.[17]

International Trade Commission (ITC) Notification

In accordance with section 733(f) of the Act, we have notified the ITC of our affirmative preliminary determination of sales at LTFV. If our final determination is affirmative, the ITC will determine

[9] *See, e.g., Certain Frozen Warmwater Shrimp from India: Final Results of Antidumping Duty Administrative Review, Partial Rescission, and Final No Shipment Determination,* 76 FR 41203, 41205 (July 13, 2011).

[10] *See* Memorandum to the File from Julia Hancock, Senior Case Analyst, Office V, Enforcement and Compliance, Subject: Certain Uncoated Paper from Brazil: Calculation of All-Others' Rate in Preliminary Determination (August 19, 2015).

[11] In this preliminary determination, we determine that International Paper do Brasil Ltda. and International Paper Exportadora Ltda. constitute a single entity. *See* Preliminary Decision Memorandum at ''Affiliation Determinations'' section, and Memorandum to the File from Julia Hancock, Senior International Trade Analyst, Office V, through Paul Walker, Acting Program Manager, Office V ''Calculations Performed for International Paper do Brasil Ltda. and International Paper Exportadora Ltda. for the Preliminary Determination in the Antidumping Duty Investigation of Certain Uncoated Paper from Brazil'' (August 19, 2015), at 2–3.

[12] *See Modification of Regulations Regarding the Practice of Accepting Bonds During the Provisional Measures Period in Antidumping and Countervailing Duty Investigations,* 76 FR 61042 (October 3, 2011).

[13] *See* 19 CFR 351.309.

[14] *See* 19 CFR 351.310(c).

[15] *See* Letter to the Secretary of Commerce from International Paper ''Request for Postponement of Final Determination'' (August 13, 2015).

[16] *See* Letter to the Secretary of Commerce from Petitioners ''Petitioners' Comments on the Extension of the Final Determination'' (July 31, 2015).

[17] *See also* 19 CFR 351.210(e).

before the later of 120 days after the date of this preliminary determination or 45 days after our final determination whether these imports are materially injuring, or threaten material injury to, the U.S. industry.

This determination is issued and published in accordance with sections 733(f) and 777(i)(1) of the Act and 19 CFR 351.205(c).

Dated: August 19, 2015.

Paul Piquado,

Assistant Secretary for Enforcement and Compliance.

Appendix I

The merchandise covered by this investigation includes uncoated paper in sheet form; weighing at least 40 grams per square meter but not more than 150 grams per square meter; that either is a white paper with a GE brightness level of 85 or higher or is a colored paper; whether or not surface-decorated, printed (except as described below), embossed, perforated, or punched; irrespective of the smoothness of the surface; and irrespective of dimensions (Certain Uncoated Paper).

Certain Uncoated Paper includes (a) uncoated free sheet paper that meets this scope definition; (b) uncoated ground wood paper produced from bleached chemi-thermo-mechanical pulp (''BCTMP'') that meets this scope definition; and (c) any other uncoated paper that meets this scope definition regardless of the type of pulp used to produce the paper.

Specifically excluded from the scope are (1) paper printed with final content of printed text or graphics and (2) lined paper products, typically school supplies, composed of paper that incorporates straight horizontal and/or vertical lines that would make the paper unsuitable for copying or printing purposes.

Imports of the subject merchandise are provided for under Harmonized Tariff Schedule of the United States (''HTSUS'') categories 4802.56.1000, 4802.56.2000, 4802.56.3000, 4802.56.4000, 4802.56.6000, 4802.56.7020, 4802.56.7040, 4802.57.1000, 4802.57.2000, 4802.57.3000, and 4802.57.4000. Some imports of subject merchandise may also be classified under 4802.62.1000, 4802.62.2000, 4802.62.3000, 4802.62.5000, 4802.62.6020, 4802.62.6040, 4802.69.1000, 4802.69.2000, 4802.69.3000, 4811.90.8050 and 4811.90.9080. While HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of the investigation is dispositive.

Appendix II

List of Topics Discussed in the Preliminary Decision Memorandum

1. Summary
2. Background
3. Period of Investigation
4. Postponement of Final Determination and Extension of Provision Measures
5. Scope Comments
6. Affiliation Determinations
7. All Others Rate
8. Discussion of the Methodology
   A. Determination of the Comparison Method
   B. Results of Differential Pricing Analysis
9. Date of Sale
10. Product Comparisons
11. Treatment of Re-Export Sales
12. Export Price
13. Constructed Export Price
14. Normal Value
   A. Home Market Viability
   B. Affiliated Party Transactions and Arm's-Length Test
   C. Level of Trade
   D. Cost of Production Analysis
1. Calculation of COP
2. Test of Comparison Market Sales Prices
3. Results of the COP Test
4. Constructed Value
   E. Calculation of Normal Value Based on Comparison Market Prices
15. Currency Conversion
16. Verification

[FR Doc. 2015–21176 Filed 8–26–15; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–985]

Xanthan Gum From the People's Republic of China: Initiation of Antidumping Duty New Shipper Review

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

DATES: *Effective Date:* August 27, 2015.

SUMMARY: The Department of Commerce (''Department'') is initiating a new shipper review of the antidumping duty order on xanthan gum from the People's Republic of China (''PRC'') with respect to Inner Mongolia Jianlong Biochemical Co., Ltd. (''Inner Mongolia Jianlong''). The period of review (''POR'') for the new shipper review is July 1, 2014, through June 30, 2015.

FOR FURTHER INFORMATION CONTACT: Brandon Farlander, AD/CVD Operations, Office IV, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–0182.

SUPPLEMENTARY INFORMATION:

Background

The Department published the antidumping duty order on xanthan gum from the PRC on July 19, 2013.[1] On July 31, 2015, pursuant to section 751(a)(2)(B)(i) of the Tariff Act of 1930, as amended (the ''Act''), and 19 CFR 351.214(c), the Department received a timely request for a new shipper review from Inner Mongolia Jianlong.[2] On August 11, 2015, the Department received entry data from U.S Customs and Border Protection (''CBP'') relating to this request for a new shipper review.[3] In addition, the Department requested that CBP provide entry documents pertaining to the entry that is subject to Inner Mongolia Jianlong's request to confirm certain information reported in the Initiation Request.[4] The continuation of the new shipper review will be contingent upon confirmation of the relevant information reported in the Initiation Request.

Inner Mongolia Jianlong reported that it was the producer and exporter for the sale of subject merchandise upon which the request for the new shipper review is based.[5]

Pursuant to section 751(a)(2)(B)(i)(I) of the Act and 19 CFR 351.214(b)(2)(i), Inner Mongolia Jianlong certified that it did not export xanthan gum to the United States during the period of investigation (''POI'').[6] In addition, pursuant to section 751(a)(2)(B)(i)(II) of the Act and 19 CFR 351.214(b)(2)(iii)(A), Inner Mongolia Jianlong certified that, since the initiation of the investigation, it has never been affiliated with an exporter or producer that exported xanthan gum to the United States during the POI, including those not individually examined during the investigation.[7] As required by 19 CFR 351.214(b)(2)(iii)(B), Inner Mongolia Jianlong also certified that its export activities were not controlled by the government of the PRC.[8]

In addition, pursuant to 19 CFR 351.214(b)(2)(iv), Inner Mongolia Jianlong submitted documentation concerning the following: (1) The date

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[1] *See Xanthan Gum From the People's Republic of China: Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order,* 78 FR 43143 (July 19, 2013) (''*Order*'').

[2] *See* Letter to the Secretary of Commerce ''Re: Xanthan Gum from the People's Republic of China—Request for New Shipper Review,'' dated July 31, 2015 (''Initiation Request'').

[3] *See* Memorandum to the File from Howard Smith, Program Manager, AD/CVD Operations, Office IV regarding ''U.S. Customs and Border Protection Data; Customs Query Results for Inner Mongolia Jianlong Biochemical Co., Ltd.,'' dated August 18, 2015.

[4] *See* Memorandum to Sherri L. Hoffman, Director, AD/CVD/Revenue Policy & Programs, Office of International Trade, U.S. Customs and Border Protection, from Abdelali Elouaradia, Director Office IV, AD/CVD Operations, Enforcement and Compliance, ''Request for U.S. Entry Documents—Xanthan Gum from the People's Republic of China (A–570–985),'' dated August 18, 2015.

[5] *See* Initiation Request at 1.

[6] *Id.* at 2.

[7] *Id.*

[8] *Id.*

on which it first shipped xanthan gum for export to the United States and the date on which the xanthan gum was first entered, or withdrawn from warehouse, for consumption; (2) the volume of its first shipment; and (3) the date of its first sale to an unaffiliated customer in the United States.[9]

The Department conducted a CBP database query and confirmed by examining the results of the CBP data query that Inner Mongolia Jianlong's subject merchandise entered the United States during the POR specified by the Department's regulations.[10]

Period of Review

Pursuant to 19 CFR 351.214(g)(1)(i)(A), the POR for the new shipper review of Inner Mongolia Jianlong is July 1, 2014, through June 30, 2015.[11]

Initiation of New Shipper Review

Pursuant to section 751(a)(2)(B) of the Act, 19 CFR 351.214(b), and based on the information on the record, the Department finds that Inner Mongolia Jianlong meets the threshold requirements for initiation of a new shipper review of its shipment of xanthan gum from the PRC.[12] However, if the information supplied by Inner Mongolia Jianlong is later found to be incorrect or insufficient during the course of this proceeding, the Department may rescind the review or apply facts available pursuant to section 776 of the Act, depending upon the facts on the record.

Pursuant to 19 CFR 351.221(c)(1)(i), the Department will publish the notice of initiation of a new shipper review no later than the last day of the month following the anniversary month or semiannual anniversary month of the order. The Department intends to issue the preliminary results of this review no later than 180 days from the date of initiation, and the final results of this review no later than 90 days after the date the preliminary results are issued.[13]

It is the Department's usual practice, in cases involving non-market economies (''NME''), to require that a company seeking to establish eligibility for an antidumping duty rate separate from the NME-wide entity to provide evidence of the absence of *de jure* and *de facto* government control over the company's export activities.[14] Accordingly, the Department will issue a questionnaire to Inner Mongolia Jianlong which will include a section requesting information with regard to its export activities for the purpose of establishing Inner Mongolia Jianlong's eligibility for a separate rate. The review of Inner Mongolia Jianlong will proceed if the evidence provides sufficient indication that Inner Mongolia Jianlong is not subject to either *de jure* or *de facto* government control with respect to its exports of subject merchandise.

The Department will instruct CBP to allow, at the option of the importer, the posting, until the completion of the review, of a bond or security in lieu of a cash deposit for entries of subject merchandise from Inner Mongolia Jianlong in accordance with section 751(a)(2)(B)(iii) of the Act and 19 CFR 351.214(e). Because Inner Mongolia Jianlong certified that it produced and exported the subject merchandise that is the subject of this new shipper review, the Department will apply the bonding privilege only for subject merchandise produced and exported by Inner Mongolia Jianlong.

Interested parties requiring access to proprietary information in this new shipper review should submit applications for disclosure under administrative protective order in accordance with 19 CFR 351.305 and 351.306.

This initiation notice is published in accordance with section 751(a)(2)(B) of the Act and 19 CFR 351.214 and 351.221(c)(1)(i).

Dated: August 21, 2015.

Gary Taverman,

Associate Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2015–21250 Filed 8–26–15; 8:45 am]

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[9] *Id.* at 2–3 and Exhibit 1.

[10] *See* 19 CFR 351.214(g)(1)(i)(A).

[11] *See* 19 CFR 351.214(g)(1)(ii)(B).

[12] *See* Memorandum to the File through Abdelali Elouaradia, Director, AD/CVD Operations, Office IV ''Initiation of Antidumping New Shipper Review of Xanthan Gum From the People's Republic of China: Inner Mongolia Jianlong Biochemical Co., Ltd. Initiation Checklist,'' dated concurrently with this notice.

[13] *See* section 751(a)(2)(B)(iv) of the Act; 19 CFR 351.214(i).

[14] *See Xanthan Gum From the People's Republic of China: Initiation of Antidumping Duty New Shipper Review,* 79 FR 11083, 11084 (February 27, 2014).

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

Proposed Information Collection; Comment Request; Baldrige Executive Fellows Program

AGENCY: National Institute of Standards and Technology, 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 26, 2015.

ADDRESSES: Direct all written comments to Jennifer Jessup, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6616, 14th and Constitution Avenue NW., Washington, DC 20230 (or via the Internet at *JJessup@doc.gov*).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Dawn Bailey, Baldrige Performance Excellence Program, 100 Bureau Drive, Stop 1020, Gaithersburg, MD 20899, 301–975–3074, *dawn.bailey@nist.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

The Baldrige Performance Excellence Program seeks applicants for the Baldrige Executive Fellows Program, a one-year, leadership development experience for direct reports to the most senior leader in an organization or business unit leaders. Using the Baldrige Excellence Framework as a foundation, the program discusses impactful leadership through visits to Baldrige Award recipient sites and senior leaders, virtual discussions, and face-to-face peer training using an adult learning model. Fellows will discuss how to achieve performance excellence for their own organizations, stimulate innovation, and build the knowledge and capabilities necessary for organizational sustainability. Fellows will create a capstone project that tackles an issue of strategic importance in their own organizations; capstones have included innovating supply chains and customer relationship management systems, improving health systems and their communication with physicians, and creating balanced scorecards. The Baldrige Executive Fellows has been nationally recognized for two consecutive years as the number-one leadership development program in the military/government category of the Leadership 500 Awards, sponsored by HR.com. The program is aligned with the Baldrige Program mission to

improve the competitiveness and performance of U.S. organizations for the benefit of all U.S. residents. The Baldrige Program and its Malcolm Baldrige National Quality Award were created by Public Law 100–107 (The Malcolm Baldrige National Quality Improvement Act of 1987) and signed into law on August 20, 1987.

II. Method of Collection

Senior leaders interested in applying for selection as a Baldrige Fellow must *mail* the following package of material directly to the Baldrige Program:

1. A resumé, including email, postal address, and telephone contact information; and the name and email address of an assistant or alternate contact person
2. An organizational chart that includes names and titles showing the applicant's position within the organization
3. A recommendation letter from the applicant's highest-ranking official showing the organization's support of his/her participation in the program
4. A list of key competitors (in order that the Baldrige Program may avoid creating a cohort that would be unable to share effectively due to competitive situations)

Fax is also acceptable. The NIST Secure File Transfer Service (''N-files'') is also made available for applicants who wish to electronically submit materials that include personally identifiable information.

Information is collected one time per year (typically in September–December) for each cohort of Fellows.

Information is need to make selection decisions that are based on (1) sector mix, (2) appropriate level within the organization, (3) likelihood to follow through, (4) diversity, and (5) no direct competitors with participating award recipients or other Fellows.

III. Data

OMB Control Number: #0693–XXXX.

Form Number(s): None.

Type of Review: Regular submission.

Affected Public: Any senior or mid-level leader from business or other for-profit organizations; not-for-profit institutions; state, local, or tribal government; Federal government.

Estimated Number of Respondents: 15 per year.

Estimated Time per Response: 1 hour to gather materials.

Estimated Total Annual Burden Hours: 15 hours.

Estimated Total Annual Cost to Public: $0.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: August 21, 2015.

Glenna Mickelson,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2015–21214 Filed 8–26–15; 8:45 am]

BILLING CODE 3510–13–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XE145

Atlantic Coastal Fisheries Cooperative Management Act Provisions; American Eel Fishery

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

ACTION: Notice of non-compliance referral; request for comments.

SUMMARY: NMFS announces that on August 6, 2015, the Atlantic States Marine Fisheries Commission (Commission) found the State of Delaware out of compliance with the Commission's Interstate Fishery Management Plan (ISFMP) for American Eel. Subsequently, on August 19, 2015, the Commission referred the matter to NMFS, under delegation of authority from the Secretary of Commerce, for federal non-compliance review under the provisions of the Atlantic Coastal Fisheries Cooperative Management Act (Atlantic Coastal Act). The Atlantic Coastal Act mandates that NMFS must review the Commission's non-compliance referral and make specific findings by September 18, 2015, 30 days after receiving the referral. If NMFS determines that Delaware failed to carry out its responsibilities under the Coastal American Eel ISFMP, and if the measures it failed to implement are necessary for conservation, then, according to the Atlantic Coastal Act, NMFS must declare a moratorium on fishing for American eel in Delaware waters.

DATES: Comments must be submitted by September 11, 2015. NMFS intends to make a determination on this matter by September 18, 2015, and will publish its findings in the **Federal Register** immediately thereafter.

ADDRESSES: Written comments should be sent to Derek Orner, Office of Sustainable Fisheries, NMFS, 1315 East-West Highway, Room 13325, Silver Spring, MD 20910. Mark the outside of the envelope ''Comments on American eel Non-Compliance.'' Comments may also be sent via fax to (301) 713–0596 or by email to *derek.orner@noaa.gov.*

FOR FURTHER INFORMATION CONTACT: Derek Orner, Fishery Management Specialist, NMFS Office of Sustainable Fisheries, (301) 427–8567, *derek.orner@noaa.gov.*

SUPPLEMENTARY INFORMATION: The 2012 Benchmark Stock Assessment for American eel found that the American eel population in U.S. waters is depleted. The assessment concluded that the stock is at or near historically low levels due to a combination of historical overfishing, habitat loss and alteration, productivity and food web alterations, predation, turbine mortality, changing climatic and oceanic conditions, toxins and contaminants, and disease. As a result, the Commission took action to reduce mortality and limit further development of this fishery. In order to achieve the conservation goals and objectives of the ISFMP, states were to effectively implement the following actions: A 9″ minimum size for yellow eel (the life stage when eels are typically harvested as bait) recreational and commercial fisheries; ½″ x ½″ minimum mesh size for yellow eel pots; Allowance of 4″ x 4″ escape panel in post of ½″ x ½″ mesh for 3 years (beginning on January 1, 2014); and, Recreational 25 fish bag limit per day per angler. On August 6, 2015, the Commission found the State of Delaware out of compliance for not fully and effectively implementing and enforcing these measures. The Commission subsequently referred its non-compliance finding to NMFS on August 19, 2015.

Federal response to a Commission non-compliance referral is governed by

the Atlantic Coastal Act. Under the Atlantic Coastal Act, the Secretary of Commerce (Secretary) must make two findings within 30 days after receiving the non-compliance referral. First, the Secretary must determine whether the state in question (in this case, Delaware) has failed to carry out its responsibilities under the ISFMP. Second, the Secretary must determine whether the measures that the State has failed to implement or enforce are necessary for the conservation of the fishery in question. If the Secretary of Commerce makes affirmative findings on both criteria, then the Secretary must implement a moratorium on fishing in the fishery in question (in this case American eel) within the waters of the non-complying state (in this case, Delaware). Further, the moratorium must become effective within six months of the date of the Secretary's non-compliance determination. To the extent that the allegedly offending state later implements the involved measure, the Atlantic Coastal Act allows the state to petition the Commission that it has come back into compliance, and if the Commission concurs, the Commission will notify the Secretary and, if the Secretary concurs, the moratorium will be withdrawn. The Secretary has delegated Atlantic Coastal Act authorities to the Assistant Administrator for Fisheries at NMFS.

NMFS has notified the State of Delaware, the Commission, and the Mid-Atlantic Fishery Management Council in separate letters, of its receipt of the Commission's non-compliance referral. In the letters, NMFS solicits comments from the Commission and Councils to the extent either entity is interested in providing such comments. NMFS also indicated to the State of Delaware that the State is entitled to meet with and present its comments directly to NMFS if the State so desires.

NMFS intends to make its non-compliance determination on or about September 18, 2015, which is 30 days after receipt of the Commission's non-compliance referral. NMFS will announce its determination by **Federal Register** notice immediately thereafter. To the extent that NMFS makes an affirmative non-compliance finding, NMFS will announce the effective date of the moratorium in that **Federal Register** notice.

Authority: 16 U.S.C. 5101 *et seq.*

Dated: August 21, 2015.

Alan D. Risenhoover,

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

[FR Doc. 2015–21228 Filed 8–26–15; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XC268

Marine Mammals; File No. 16239

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

ACTION: Notice; receipt of application for permit amendment.

SUMMARY: Notice is hereby given that Dan Engelhaupt, Ph.D., HDR EOC, 5700 Lake Wright Drive, Norfolk, VA 23502–1859, has applied for an amendment to Scientific Research Permit No. 16239.

DATES: Written, telefaxed, or email comments must be received on or before September 28, 2015.

ADDRESSES: The application and related documents are available for review by selecting ''Records Open for Public Comment'' from the ''Features'' box on the Applications and Permits for Protected Species home page, *https://apps.nmfs.noaa.gov,* and then selecting File No. 16239 from the list of available applications.

These documents are also available upon written request or by appointment in the Permits and Conservation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301) 427–8401; fax (301) 713–0376.

Written comments on this application should be submitted to the Chief, Permits and Conservation Division, at the address listed above. Comments may also be submitted by facsimile to (301) 713–0376, or by email to *NMFS.Pr1Comments@noaa.gov.* Please include the File No. in the subject line of the email comment.

Those individuals requesting a public hearing should submit a written request to the Chief, Permits and Conservation Division at the address listed above. The request should set forth the specific reasons why a hearing on this application would be appropriate.

FOR FURTHER INFORMATION CONTACT: Carrie Hubard or Courtney Smith, (301) 427–8401.

SUPPLEMENTARY INFORMATION: The subject amendment to Permit No. 16239 is requested under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), the regulations governing the taking and importing of marine mammals (50 CFR part 216), the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), and the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR parts 222–226).

Permit No. 16239, issued on September 11, 2013 (78 FR 60852), authorizes the permit holder to harass cetacean and pinniped species during vessel and aerial survey activities, including behavioral observations and photo-identification. Cetacean species may also be harassed during underwater photography and collection of sloughed skin and fecal samples. Surveys may be conducted year-round in all U.S. and international waters in the Pacific Ocean (including Alaska, Washington, Oregon, California, Hawaii, Guam, Marianas Islands, and other U.S. territories) and Atlantic Ocean (including the Gulf of Mexico, western North Atlantic, Caribbean Sea, and Sargasso Seas). The permit expires September 30, 2018.

The permit holder is requesting the permit be amended to include authorization for: (1) Increasing takes for some species during aerial and vessel visual surveys to document presence/absence, behavior, and movement of marine mammals before, during, and after Naval training exercise operations, offshore energy installations, oil and gas exploration and production, and pier refurbishment/replacement; (2) collecting biopsy samples to document genetic variation within populations, gender, foraging patterns, and stress levels; and (3) using multiple tag types, including satellite and digital acoustic tags, to document movement and dive patterns, social and population structure, and habitat use. See tables in the permit amendment application for numbers of takes by species, stock and activity. The research would be conducted to collect data on population and genetic variations and habitat use, and to monitor behavioral changes during activities associated with U.S. Navy, renewable energy, oil and gas exploration and production, and pier-based construction.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), an initial determination has been made that the activity proposed is categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

Concurrent with the publication of this notice in the **Federal Register**, NMFS is forwarding copies of this application to the Marine Mammal Commission and its Committee of Scientific Advisors.

Dated: August 18, 2015.

Julia Harrison,

Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2015–21215 Filed 8–26–15; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XE075

Marine Mammals; File No. 18636

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

ACTION: Notice; receipt of application.

SUMMARY: Notice is hereby given that Iain Kerr, D.H.L., Ocean Alliance, 32 Horton Street, Gloucester, MA 01930, has applied in due form for a permit to conduct research on multiple cetacean species.

DATES: Written, telefaxed, or email comments must be received on or before September 28, 2015.

ADDRESSES: The application and related documents are available for review by selecting ''Records Open for Public Comment'' from the ''Features'' box on the Applications and Permits for Protected Species (APPS) home page, *https://apps.nmfs.noaa.gov,* and then selecting File No. 18636 from the list of available applications.

These documents are also available upon written request or by appointment in the Permits and Conservation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301) 427–8401; fax (301) 713–0376.

Written comments on this application should be submitted to the Chief, Permits and Conservation Division, at the address listed above. Comments may also be submitted by facsimile to (301) 713–0376, or by email to *NMFS.Pr1Comments@noaa.gov.* Please include the File No. in the subject line of the email comment.

Those individuals requesting a public hearing should submit a written request to the Chief, Permits and Conservation Division at the address listed above. The request should set forth the specific reasons why a hearing on this application would be appropriate.

FOR FURTHER INFORMATION CONTACT: Courtney Smith or Amy Hapeman, (301) 427–8401.

SUPPLEMENTARY INFORMATION: The subject permit is requested under the authority of the Marine Mammal Protection Act of 1972, as amended (MMPA; 16 U.S.C. 1361 *et seq.*), the regulations governing the taking and importing of marine mammals (50 CFR part 216), and the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*).

The applicant requests a five-year permit to determine how environmental toxicants affect cetaceans and vary spatially and temporally across species; and determine the route of exposure. Research would occur in U.S. waters and the high seas of the Pacific, Atlantic and Indian Oceans via vessel surveys targeting live cetaceans, tissue collection of dead, stranded cetaceans, and the import/export/receipt of biological samples collected in foreign waters/countries. Field research activities on live animals would include collection of sloughed skin and feces, biopsy sampling, photo-identification, videography, passive acoustic recording, focal follows, behavioral observation, and breath sampling via a small unmanned aircraft system. The applicant requests to annually harass and sample the following species during vessel surveys as follows. In the North Atlantic: 150 takes for the primary study species, sperm whales (*Physeter macrocephalus*); 30 takes for Bryde's whales (*Balaenoptera brydei*); 40 takes for humpback whales (*Megaptera novaeangliae*); and 20 takes for all other requested species [blue (*B. musculus*), dwarf sperm (*Kogia sima*), false killer (*Pseudorca crassidens*), fin (*B. physalus*), killer whales (*Orcinus orca*), minke (*B. acutorostrata),* pilot (*Globicephala spp.*), pygmy sperm (*Kogia breviceps*), sei (*B. borealis*), and beaked whale species and dolphins]. In the Pacific Ocean, the applicant requests up to 100 takes of sperm whales, and 20 takes of all other species, annually: blue, pygmy and dwarf sperm, fin, humpback, Bryde's, minke, short- and long-finned pilot, sei, Eastern gray (*Eschrichtius robustus*), false killer, and killer whales, and several beaked whale and dolphin species.

Additionally, the applicant requests to annually import/export/receive up to 150 biological samples (parts) for sperm whales; 200 parts for southern right whales; 40 parts for humpback whales; 30 parts for Bryde's whales; and 20 parts for all other requested species.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), an initial determination has been made that the activity proposed is categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

Concurrent with the publication of this notice in the **Federal Register**, NMFS is forwarding copies of the application to the Marine Mammal Commission and its Committee of Scientific Advisors.

Dated: August 18, 2015.

Julia Harrison,

Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2015–21216 Filed 8–26–15; 8:45 am]

BILLING CODE 3510–22–P

COMMODITY FUTURES TRADING COMMISSION

Agency Information Collection Activities Under OMB Review

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (''PRA''), this notice announces that the Information Collection Request (''ICR'') abstracted below has been forwarded to the Office of Management and Budget (''OMB'') for review and comment. The ICR describes the nature of the information collection and its expected costs and burden.

DATES: Comments must be submitted on or before September 28, 2015.

ADDRESSES: Comments regarding the burden estimated or any other aspect of the information collection, including suggestions for reducing the burden, may be submitted directly to the Office of Information and Regulatory Affairs (''OIRA'') in OMB, within 30 days of the notice's publication, by email at *OIRAsubmissions@omb.eop.gov.* Please identify the comments by OMB Control No. 3038–0007. Please provide the Commission with a copy of all submitted comments at the address listed below. Please refer to OMB Reference No. 3038–0007, found on *http://reginfo.gov.*

Comments may also be mailed to the Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for the Commodity Futures Trading Commission, 725 17th Street NW., Washington, DC 20503. You may also submit comments, identified by Renewal of Collection Number 3038–0007 and ''Regulation of Domestic Exchange-Traded Options,'' by any of the following methods:

- *The Agency's Web site, via its Comments Online process: http://comments.cftc.gov.* Follow the

instructions for submitting comments through the Web site.

• *Mail:* Christopher Kirkpatrick, Secretary of the Commission, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW., Washington, DC 20581.

• *Delivery/Courier:* Same as Mail above.

• *Federal eRulemaking Portal: http://www.regulations.gov/.* Follow the instructions for submitting comments through the Portal.

All comments must be submitted in English, or if not, accompanied by an English translation. Comments will be posted as received to *http://www.cftc.gov.* You should submit only information that you wish to make available publicly. If you wish the Commission to consider information that you believe is exempt from disclosure under the Freedom of Information Act, a petition for confidential treatment of the exempt information may be submitted according to the procedures established in § 145.9 of the Commission's regulations.[1]

The Commission reserves the right, but shall have no obligation, to review, pre-screen, filter, redact, refuse or remove any or all of your submission from *http://www.cftc.gov* that it may deem to be inappropriate for publication, such as obscene language. All submissions that have been redacted or removed that contain comments on the merits of the ICR will be retained in the public comment file and will be considered as required under the Administrative Procedure Act and other applicable laws, and may be accessible under the Freedom of Information Act.

FOR FURTHER INFORMATION CONTACT: Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW., Washington, DC 20581; Dana R. Brown, Division of Market Oversight, telephone: (202) 418–5093 and email: *dbrown@cftc.gov;* or Jacob Chachkin, Division of Swap Dealer and Intermediary Oversight, telephone: (202) 418–5496 and email: *jchachkin@cftc.gov.*

SUPPLEMENTARY INFORMATION: *Title:* Rules Relating to Regulation of Domestic Exchange Traded-Options (OMB Control No. 3038–0007). This is a request for extension of a currently approved information collection.

Abstract: The rules require futures commission merchants and introducing brokers: (1) To provide their customers with standard risk disclosure statements concerning the risk of trading commodity interests; and (2) to retain all promotional material and the source of authority for information contained therein. The purpose of these rules is to ensure that customers are advised of the risks of trading commodity interests and to avoid fraud and misrepresentation. This information collection contains the recordkeeping and reporting requirements needed to ensure regulatory compliance with Commission rules relating to this issue.

Burden Statement: The Commission estimates the burden of this collection of information as follows:

ESTIMATED ANNUAL REPORTING BURDEN

Regulation	Estimated number of respondents or recordkeepers per year	Reports annually by each respondent	Total annual responses	Estimated average number of hours per response	Estimated total number of hours of annual burden in fiscal year
Reporting:					
38.3, 38.4, 40.2 and 40.3 (Procedure for designation or self-certification)	13.00	2.00	26.00	25.00	650.00
33.7—(Risk disclosure)	1,401.00	115.00	161,115.00	0.08	12,889.20
Subtotal (Reporting requirements)	1,414.00	.....	20,151.00	.....	13,539.20
Recordkeeping:					
33.8—(Retention of promotional material)	1,401.00	1.00	1,401.00	25.00	35,025.00
Subtotal (Recordkeeping requirements)	1,401.00	1.00	1,401.00	25.00	35,025.00
Grand total (Reporting and Recordkeeping)	*2,815.00*	.....	*21,155.20*	.....	*48,564.2*

There are no capital costs or operating and maintenance costs associated with this collection.

Authority: 44 U.S.C. 3501 *et seq.*

Dated: August 24, 2015.

Robert N. Sidman,

Deputy Secretary of the Commission.

[FR Doc. 2015–21252 Filed 8–26–15; 8:45 am]

BILLING CODE 6351–01–P

COMMODITY FUTURES TRADING COMMISSION

Agency Information Collection Activities Under OMB Review

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (''PRA''), this notice announces that the Information Collection Request (''ICR'') abstracted below has been forwarded to the Office of Management and Budget (''OMB'') for review and comment. The ICR describes the nature of the information collection and its expected costs and burden.

DATES: Comments must be submitted on or before September 28, 2015.

ADDRESSES: Comments regarding the burden estimated or any other aspect of the information collection, including suggestions for reducing the burden, may be submitted directly to the Office of Information and Regulatory Affairs (''OIRA'') in OMB, within 30 days of the notice's publication, by email at *OIRAsubmissions@omb.eop.gov.* Please identify the comments by OMB Control No. 3038–0093. Please provide the Commission with a copy of all submitted comments at the address listed below. Please refer to OMB Reference No. 201203–3038–005, found on *http://reginfo.gov.*

Comments may also be mailed to the Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for the Commodity Futures Trading Commission, 725 17th Street NW., Washington, DC 20503, and to: Christopher Kirkpatrick, Secretary of the Commission, Commodity Futures Trading Commission, 1155 21st Street

[1] 17 CFR 145.9, 74 FR 17395 (Apr. 15, 2009).

NW., Washington, DC 20581; or by Hand Delivery/Courier at the same address; or through the Agency's Web site at *http://comments.cftc.gov.* Follow the instructions for submitting comments through the Web site.

A copy of the supporting statements for the collection of information discussed above may be obtained by visiting *http://RegInfo.gov.* All comments must be submitted in English, or if not, accompanied by an English translation. Comments will be posted as received to *www.cftc.gov.*

FOR FURTHER INFORMATION CONTACT: Lois Gregory, Associate Director, Division of Market Oversight, Commodity Futures Trading Commission, (202) 418–5569, email: *lgregory@cftc.gov,* and refer to OMB Control No. 3038–0093.

SUPPLEMENTARY INFORMATION:

Title: Part 40, Provisions Common To Registered Entities (OMB Control No. 3038–0093). This is a request for extension of a currently approved information collection.

Abstract: This collection of information involves the collection and submission to the Commission of information from registered entities concerning new products, rules, and rule amendments pursuant to the procedures outlined in §§ 40.2, 40.3, 40.5, 40.6, and 40.10 found in 17 CFR part 40.

Burden Statement: Registered entities must comply with certification and approval requirements which include an explanation and analysis when seeking to implement new products, rules, and rule amendments, including changes to product terms and conditions. The Commission's regulations §§ 40.2, 40.3, 40.4, 40.5, 40.6 and 40.10 provide procedures for the submission of rules and rule amendments by designated contract markets, swap execution facilities, derivatives clearing organizations, and swap data repositories. They establish the procedures for submitting the ''written certification'' required by Section 5c of the Commodity Exchange Act (''Act''). In connection with a product or rule certification, the registered entity must provide a concise explanation and analysis of the submission and its compliance with statutory provisions of the Act. Accordingly, new rules or rule amendments must be accompanied by concise explanations and analyses of the purposes, operations, and effects of the submissions. This information may be submitted as part of the same submission containing the required ''written certification.''

Respondents/Affected Entities: Designated Contract Markets, Swap Execution Facilities, Derivatives Clearing Organizations, and Swap Data Repositories.

- *Rules 40.2, 40.3, 40.5, and 40.6*

Estimated Number of Respondents: 70.
Annual Responses by each Respondent: 100.
Estimated Hours per Response: 2.
Estimated Total Hours per Year: 14,000.

- *Rule 40.10*

Estimated Number of Respondents: 4.
Annual Responses by each Respondent: 2.
Estimated Hours per Response: 5.
Estimated Total Hours per Year: 40.

(Authority: 44 U.S.C. 3501 *et seq.*)

Dated: August 24, 2015.

Robert N. Sidman,

Deputy Secretary of the Commission.

[FR Doc. 2015–21268 Filed 8–26–15; 8:45 am]

BILLING CODE 6351–01–P

DEPARTMENT OF EDUCATION

Advisory Committee on Student Financial Assistance: Meeting

AGENCY: Advisory Committee on Student Financial Assistance, Education.

ACTION: Announcement of open teleconference meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming open teleconference meeting of the Advisory Committee on Student Financial Assistance. This notice also describes the functions of the Advisory Committee. Notice of this meeting is required under Section 10(a)(2) of the Federal Advisory Committee Act. This document is intended to notify the general public of their opportunity to attend.

DATES: The Committee will meet via teleconference on Wednesday, September 9, 2015, beginning at 3:00 p.m. and ending at approximately 3:30 p.m. (EDT).

ADDRESSES: Office of the Advisory Committee on Student Financial Assistance, Capitol Place, 555 New Jersey Ave NW., Suite 522, Washington DC 20202–7582.

FOR FURTHER INFORMATION CONTACT: Ms. Tracy Jones, Executive Officer, Advisory Committee on Student Financial Assistance, Capitol Place, 555 New Jersey Ave NW., Suite 522, Washington DC 20202–7582, (202) 219–2099.

SUPPLEMENTARY INFORMATION: *Statutory Authority and Function:* The Advisory Committee on Student Financial Assistance is established under Section 491 of the Higher Education Act of 1965 as amended by Public Law 100–50 (20 U.S.C. 1098). The Advisory Committee serves as an independent source of advice and counsel to the Congress and the Secretary of Education on student financial aid policy. Since its inception, the congressional mandate requires the Advisory Committee to conduct objective, nonpartisan, and independent analyses on important aspects of the student assistance programs under Title IV of the Higher Education Act. In addition, Congress expanded the Advisory Committee's mission in the Higher Education Opportunity Act of 2008 to include several important areas: Access, Title IV modernization, early information and needs assessment and review and analysis of regulations. Specifically, the Advisory Committee is to review, monitor and evaluate the Department of Education's progress in these areas and report recommended improvements to Congress and the Secretary.

Meeting Agenda

The Advisory Committee has scheduled this teleconference for the sole purpose of electing an ACSFA member to serve as chair and a member to serve as vice-chair for one year beginning October 1, 2015.

Space at the New Jersey Avenue meeting site and ''dial-in'' (listen only) line for the teleconference meeting is limited, and you are encouraged to register early if you plan to attend. You may register by sending an email to the following email address: *tracy.deanna.jones@ed.gov.* Please include your name, title, affiliation, complete address (including internet and email, if available), and telephone and fax numbers. If you are unable to register electronically, you may fax your registration information to the Advisory Committee staff office at (202) 219–3032. You may also contact the Advisory Committee staff directly at (202) 219–2099. The registration deadline is Wednesday, September 2, 2015.

Access to Records of the Meeting: The Department will post the official report of the meeting on the Committee's Web site 90 days after the meeting. Pursuant to the FACA, the public may also inspect the materials at 555 New Jersey Ave NW., Suite 522, Washington, DC, or by emailing *acsfa@ed.gov* or by calling (202) 219–2099 to schedule an appointment.

Electronic Access to this Document: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available via the Federal Digital System at: *www.gpo.gov/fdsys.* At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF). To use PDF, you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at: *www.federalregister.gov.* Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Authority: Section 491 of the Higher Education Act of 1965 as amended by Public Law 100–50 (20 U.S.C. 1098).

William J. Goggin,

Executive Director, Advisory Committee on Student Financial Assistance.

[FR Doc. 2015–20947 Filed 8–26–15; 8:45 am]

BILLING CODE P

DEPARTMENT OF EDUCATION

Notice Inviting Publishers To Submit Tests for a Determination of Suitability for Use in the National Reporting System for Adult Education

AGENCY: Office of Career, Technical, and Adult Education, Department of Education.

ACTION: Notice.

SUMMARY: The Secretary of Education invites publishers to submit tests for review and approval for use in the National Reporting System for Adult Education (NRS) and announces the date by which publishers must submit these tests.

DATES: Deadline for transmittal of applications: October 1, 2015.

ADDRESSES: Submit your application by mail (through the U.S. Postal Service or a commercial carrier) or deliver your application by hand or by courier service to: NRS Assessment Review, c/o American Institutes for Research, 1000 Thomas Jefferson Street NW., Washington, DC 20007.

FOR FURTHER INFORMATION CONTACT: Jay LeMaster, U.S. Department of Education, 400 Maryland Avenue SW., Room 11152, Potomac Center Plaza, Washington, DC 20202–7240. Telephone: (202) 245–6218 or by email: *John.LeMaster@ed.gov.*

If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

SUPPLEMENTARY INFORMATION: The Department's regulations for Measuring Educational Gain in the National Reporting System for Adult Education, 34 CFR part 462 (NRS regulations), include the procedures for determining the suitability of tests for use in the NRS.

Criteria the Secretary Uses: In order for the Secretary to consider a test suitable for use in the NRS, the test must meet the criteria and requirements established in § 462.13.

Submission Requirements

(a) In preparing your application, you must comply with the requirements in § 462.11.

(b) In accordance with § 462.10, the deadline for transmittal of applications is October 1.

(c) Whether you submit your application by mail (through the U.S. Postal Service or a commercial carrier) or deliver your application by hand or by courier service, you must mail or deliver three copies of your application, on or before the deadline date, to the following address:

NRS Assessment Review, c/o American Institutes for Research, 1000 Thomas Jefferson Street NW., Washington, DC 20007.

(d) If you submit your application by mail or commercial carrier, you must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Secretary of Education.

(e) If you mail your application through the U.S. Postal Service, we do not accept either of the following as proof of mailing:

(1) A private metered postmark.

(2) A mail receipt that is not dated by the U.S. Postal Service.

(f) If your application is postmarked after the application deadline date, we will not consider your application.

Note: The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, you should check with your local post office.

(g) If you submit your application by hand delivery, you (or a courier service) must deliver three copies of the application by hand, on or before 4:30:00 p.m., Washington, DC time, on the application deadline date.

Accessible Format: Individuals with disabilities can obtain this document in an accessible format (*e.g.,* braille, large print, audiotape, or compact disc) on request to the contact person listed in this notice.

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register.** Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available via the Federal Digital System at: *www.gpo.gov/fdsys.* At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at: *www.federalregister.gov.* Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Authority: 20 U.S.C. 9212.

Dated: August 24, 2015.

Johan E. Uvin,

Acting Assistant Secretary for Career, Technical, and Adult Education.

[FR Doc. 2015–21267 Filed 8–26–15; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Electric Grid Resilience Self-Assessment Tool for Distribution System

AGENCY: Office of Electricity Delivery and Energy Reliability, U.S. Department of Energy.

ACTION: Request for Information; re-opening of comment period.

SUMMARY: On July 1, 2015, the Department of Energy (DOE) published in the **Federal Register** a Request for Information (RFI) regarding the electric grid resilience self-assessment tool for distribution system and requested public comment by August 17, 2015. DOE is re-opening the original public comment period of 45 days for this RFI.

DATES: The comment period for the RFI published July 1, 2015 (80 FR 37606) is re-opened. Written comments must be received on or before October 26, 2015.

ADDRESSES: Comments can be submitted by any of the following methods and must be identified by ''EGRtool''. By email: *EGRtool@hq.doe.gov*. Include ''EGRtool'' in the subject line of the message. By mail: Dan Ton, Office of Electricity Delivery and Energy Reliability, U.S. Department of Energy, Forrestal Building, Room 6E–092, 1000 Independence Avenue SW., Washington, DC 20585. Note: Delivery of the U.S. Postal Service mail to DOE may be delayed by several weeks due to security screening. DOE, therefore, encourages those wishing to comment to submit comments electronically by email.

FOR FURTHER INFORMATION CONTACT: Mr. Dan Ton, Office of Electricity Delivery and Energy Reliability, U.S. Department of Energy, Forrestal Building, Room 6E–092, 1000 Independence Avenue SW., Washington, DC 20585 or by email at *EGRtool@hq.doe.gov.*

SUPPLEMENTARY INFORMATION: On July 1, 2015, the DOE published a request for information in the **Federal Register** (80 FR 37606). DOE is seeking comments and information from interested parties to inform the development of a pilot project concerning an interactive self-assessment tool to understand the relative resilience level of national electric grid distribution systems to extreme weather events. An interactive tool could be used by distribution utilities to identify opportunities for enhancing resilience with new technologies and/or procedures to support investment planning and related tariff filings. The focus of this RFI is on the design and implementation of the interactive self-assessment resilience tool.

The July 1 notice requested comments and information from interested parties to inform the development of a pilot project concerning an interactive self-assessment tool by August 17, 2015. DOE is re-opening the comment period by 60 days to allow additional time for more substantive comment on the significant questions to which DOE is seeking response. DOE believes that re-opening the comment period to allow additional time for interested parties to submit comments is appropriate. Therefore, DOE is re-opening the comment period to provide interested parties additional time to prepare and submit comments and will consider any comments received by that date.

Issued in Washington, DC, on August 24, 2015.

Patricia A. Hoffman,

Assistant Secretary, Office of Electricity Delivery and Energy Reliability.

[FR Doc. 2015–21244 Filed 8–26–15; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Office of Energy Efficiency and Renewable Energy

Energy Conservation Program for Consumer Products: Representative Average Unit Costs of Energy

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Notice.

SUMMARY: In this notice, the U.S. Department of Energy (DOE) is forecasting the representative average unit costs of five residential energy sources for the year 2015 pursuant to the Energy Policy and Conservation Act. The five sources are electricity, natural gas, No. 2 heating oil, propane, and kerosene.

DATES: The representative average unit costs of energy contained in this notice will become effective September 28, 2015 and will remain in effect until further notice.

FOR FURTHER INFORMATION CONTACT: John Cymbalsky, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy Forrestal Building, Mail Station EE–5B, 1000 Independence Avenue SW., Washington, DC 20585–0121, (202) 287–1692, *Rep_Average_Unit_Costs@ee.doe.gov.*

Francine Pinto, Esq. U.S. Department of Energy, Office of General Counsel Forrestal Building, Mail Station GC–33, 1000 Independence Avenue SW., Washington, DC 20585–0103, (202) 586–7432, *Francine.Pinto@hq.doe.gov.*

SUPPLEMENTARY INFORMATION: Section 323 of the Energy Policy and Conservation Act (Act) requires that DOE prescribe test procedures for the measurement of the estimated annual operating costs or other measures of energy consumption for certain consumer products specified in the Act. (42 U.S.C. 6293(b)(3)) These test procedures are found in title 10 of the Code of Federal Regulations (CFR) part 430, subpart B.

Section 323(b)(3) of the Act requires that the estimated annual operating costs of a covered product be calculated from measurements of energy use in a representative average use cycle or period of use and from representative average unit costs of the energy needed to operate such product during such cycle. (42 U.S.C. 6293(b)(3)) The section further requires that DOE provide information to manufacturers regarding the representative average unit costs of energy. (42 U.S.C. 6293(b)(4)) This cost information should be used by manufacturers to meet their obligations under section 323(c) of the Act. Most notably, these costs are used to comply with Federal Trade Commission (FTC) requirements for labeling. Manufacturers are required to use the revised DOE representative average unit costs when the FTC publishes new ranges of comparability for specific covered products, 16 CFR part 305. Interested parties can also find information covering the FTC labeling requirements at *http://www.ftc.gov/appliances.*

DOE last published representative average unit costs of residential energy in a **Federal Register** notice entitled, ''Energy Conservation Program for Consumer Products: Representative Average Unit Costs of Energy'', dated March 18, 2014, 79 FR 15111.

On September 28, 2015, the cost figures published in this notice will become effective and supersede those cost figures published on March 18, 2014. The cost figures set forth in this notice will be effective until further notice.

DOE's Energy Information Administration (EIA) has developed the 2015 representative average unit after-tax residential costs found in this notice. These costs for electricity, natural gas, No. 2 heating oil, and propane are based on simulations used to produce the August 2015, EIA *Short-Term Energy Outlook* (EIA releases the *Outlook* monthly). The representative average unit after-tax cost for kerosene is derived from its price relative to that of heating oil, based on the 2010–to 2014 averages of the U.S. refiner price to end users, which include all the major energy-consuming sectors in the U.S. for these fuels. The source for these price data is the July 2015, *Monthly Energy Review* DOE/EIA–0035 (2015/07). The *Short-Term Energy Outlook* and the *Monthly Energy Review* are available on the EIA Web site at *http://www.eia.doe.gov.* The representative average unit after-tax cost for propane is derived from its price relative to that of heating oil, based on the 2015 averages of the U.S. residential sector prices found in the *Annual Energy Outlook 2015,* DOE/EIA–0383 (2015). For more information on the data sources used in this Notice, contact the National Energy Information Center, Forrestal Building, EI–30, 1000

Independence Avenue SW., Washington, DC 20585, (202) 586–8800, email: *infoctr@eia.doe.gov.*

The 2015 representative average unit costs under section 323(b)(4) of the Act are set forth in Table 1, and will become effective September 28, 2015. They will remain in effect until further notice.

Issued in Washington, DC, on August 17, 2015.

David T. Danielson,

Assistant Secretary, Energy Efficiency and Renewable Energy.

TABLE 1—REPRESENTATIVE AVERAGE UNIT COSTS OF ENERGY FOR FIVE RESIDENTIAL ENERGY SOURCES (2015)

Type of energy	Per million Btu [1]	In commonly used terms	As required by test procedure
Electricity	$37.34	12.7¢/kWh [2 3]	$0.127/kWh.
Natural Gas	10.03	$1.003/therm [4] or $10.28/MCF [5 6]	0.00001003/Btu.
No. 2 Heating Oil	19.68	$2.73/gallon [7]	0.00001968/Btu.
Propane	22.02	$3.06/gallon [8]	0.00002203/Btu.
Kerosene	22.54	$3.13/gallon [9]	0.00002254/Btu.

Sources: U.S. Energy Information Administration, *Short-Term Energy Outlook* (August 11, 2015), *Annual Energy Outlook* (April 14, 2015), and *Monthly Energy Review* (July 28, 2015).

Notes: Prices include taxes.

[1] Btu stands for British thermal units.

[2] kWh stands for kilowatt hour.

[3] 1 kWh = 3,412 Btu.

[4] 1 therm = 100,000 Btu.

[5] MCF stands for 1,000 cubic feet.

[6] For the purposes of this table, one cubic foot of natural gas has an energy equivalence of 1,025 Btu.

[7] For the purposes of this table, one gallon of No. 2 heating oil has an energy equivalence of 138,690 Btu.

[8] For the purposes of this table, one gallon of liquid propane has an energy equivalence of 91,333 Btu.

[9] For the purposes of this table, one gallon of kerosene has an energy equivalence of 135,000 Btu.

[FR Doc. 2015–21243 Filed 8–26–15; 8:45 am]

BILLING CODE 6450–01–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: EC15–193–000.

Applicants: JPM Capital Corporation, HA Wind I LLC, Morgan Stanley Wind LLC.

Description: Application of JPM Capital Corporation, et. al. for Approval Under Section 203 of the Federal Power Act.

Filed Date: 8/20/15.

Accession Number: 20150820–5228.

Comments Due: 5 p.m. ET 9/10/15.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER15–1509–002.

Applicants: ISO New England Inc.

Description: Compliance filing: Compliance Filing Concerning DNE Dispatch Changes—ER15–1509-___to be effective 4/10/2016.

Filed Date: 8/21/15.

Accession Number: 20150821–5035.

Comments Due: 5 p.m. ET 9/11/15.

Docket Numbers: ER15–1579–001.

Applicants: 67RK 8me LLC.

Description: Notice of Non-Material Change in Status of 67RK 8me LLC.

Filed Date: 8/21/15.

Accession Number: 20150821–5099.

Comments Due: 5 p.m. ET 9/11/15.

Docket Numbers: ER15–1582–001; ER15–1914–001; ER15–762–002; ER15–760–002; ER15–1896–001.

Applicants: 65HK 8me LLC, 87RL 8me LLC, Sierra Solar Greenworks LLC, Western Antelope Blue Sky Ranch A LLC, Eden Solar LLC.

Description: Notice of Non-Material Change in Status of 67HK 8me LLC, et al.

Filed Date: 8/21/15.

Accession Number: 20150821–5130.

Comments Due: 5 p.m. ET 9/11/15.

Docket Numbers: ER15–2499–000.

Applicants: California Independent System Operator Corporation.

Description: § 205(d) Rate Filing: 2015–08–20 Mesquite Solar 2 LGIA to be effective 10/21/2015.

Filed Date: 8/21/15.

Accession Number: 20150821–5000.

Comments Due: 5 p.m. ET 9/11/15.

Docket Numbers: ER15–2500–000.

Applicants: Southern California Edison Company.

Description: § 205(d) Rate Filing: Executed GIA & Executed Distrib Serv Agmt Edom Hills to be effective 10/1/2015.

Filed Date: 8/21/15.

Accession Number: 20150821–5002.

Comments Due: 5 p.m. ET 9/11/15.

Docket Numbers: ER15–2501–000.

Applicants: Midcontinent Independent System Operator, Inc.

Description: § 205(d) Rate Filing: 2015–08–21_SA 2219 ATC–METC Transmission IA Resubmittal of Original Agreement to be effective 7/1/2010.

Filed Date: 8/21/15.

Accession Number: 20150821–5058.

Comments Due: 5 p.m. ET 9/11/15.

Docket Numbers: ER15–2502–000.

Applicants: Kentucky Utilities Company.

Description: § 205(d) Rate Filing: Settlement Modifications to Bardstown and Nicholasville wholesale con to be effective 6/20/2014.

Filed Date: 8/21/15.

Accession Number: 20150821–5108.

Comments Due: 5 p.m. ET 9/11/15.

Docket Numbers: ER15–2503–000.

Applicants: NorthWestern Corporation.

Description: § 205(d) Rate Filing: Revised Rate Schedule FERC No. 244 (MT) to be effective 8/24/2015.

Filed Date: 8/21/15.

Accession Number: 20150821–5119.

Comments Due: 5 p.m. ET 9/11/15.

Docket Numbers: ER15–2504–000.

Applicants: Public Service Company of New Mexico.

Description: § 205(d) Rate Filing: Modifications to Rate Schedule No. 144 ? SJPPA Restructuring Amendment to be effective 12/31/9998.

Filed Date: 8/21/15.

Accession Number: 20150821–5122.

Comments Due: 5 p.m. ET 9/11/15.

Docket Numbers: ER15–2505–000.

Applicants: Southern California Edison Company.

Description: § 205(d) Rate Filing: Amended LGIA Desert Stateline, LLC to be effective 8/22/2015.

Filed Date: 8/21/15.

Accession Number: 20150821–5125.

Comments Due: 5 p.m. ET 9/11/15.

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 21, 2015.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2015–21229 Filed 8–26–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CD15–32–000]

West Valley Water District; Notice of Preliminary Determination of a Qualifying Conduit Hydropower Facility and Soliciting Comments and Motions To Intervene

On August 13, 2015, West Valley Water District filed a notice of intent to construct a qualifying conduit hydropower facility, pursuant to section 30 of the Federal Power Act (FPA), as amended by section 4 of the Hydropower Regulatory Efficiency Act of 2013 (HREA). The proposed Roemer Water Filtration Facility Hydroelectric Project would have an installed capacity of 484 kilowatts (kW) and would be located on the existing West Valley Water District's raw water 30-inch-diameter Lytle Creek Turnout pipe into the Roemer Water Filtration Facility. The project would be located near the City of Rialto in San Bernardino County, California.

Applicant Contact: Thomas J. Crowley, West Valley Water District, 855 W. Base Line Rd., Rialto, CA 92376, Phone No. (909) 820–3702.

FERC Contact: Robert Bell, Phone No. (202) 502–6062, email: *robert.bell@ferc.gov.*

Qualifying Conduit Hydropower Facility Description: The proposed project would consist of: (1) A proposed 141-foot-long by 24-inch-diameter supply pipe off the 30-inch diameter main pipeline; (2) a proposed 1,300 square foot prefabricated steel powerhouse containing two generating units with a total installed capacity of 484 kW; (3) a 28-foot-long 24-inch-diameter exit pipe returning flow back into the Roemer Water Filtration Facility and the Cactus Groundwater Recharge Pipeline; and (4) appurtenant facilities. The proposed project would have an estimated annual generating capacity of 2,200 megawatt-hours.

A qualifying conduit hydropower facility is one that is determined or deemed to meet all of the criteria shown in the table below.

TABLE 1—CRITERIA FOR QUALIFYING CONDUIT HYDROPOWER FACILITY

Statutory provision	Description	Satisfies (Y/N)
FPA 30(a)(3)(A), as amended by HREA	The conduit the facility uses a tunnel, canal, pipeline, aqueduct, flume, ditch, or similar manmade water conveyance that is operated for the distribution of water for agricultural, municipal, or industrial consumption and not primarily for the generation of electricity.	Y
FPA 30(a)(3)(C)(i), as amended by HREA	The facility is constructed, operated, or maintained for the generation of electric power and uses for such generation only the hydroelectric potential of a non-federally owned conduit.	Y
FPA 30(a)(3)(C)(ii), as amended by HREA	The facility has an installed capacity that does not exceed 5 megawatts	Y
FPA 30(a)(3)(C)(iii), as amended by HREA	On or before August 9, 2013, the facility is not licensed, or exempted from the licensing requirements of Part I of the FPA.	Y

Preliminary Determination: Based upon the above criteria, Commission staff preliminarily determines that the proposal satisfies the requirements for a qualifying conduit hydropower facility, which is not required to be licensed or exempted from licensing.

Comments and Motions to Intervene: Deadline for filing comments contesting whether the facility meets the qualifying criteria is 45 days from the issuance date of this notice.

Deadline for filing motions to intervene is 30 days from the issuance date of this notice.

Anyone may submit comments or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210 and 385.214. Any motions to intervene must be received on or before the specified deadline date for the particular proceeding.

Filing and Service of Responsive Documents: All filings must (1) bear in all capital letters the ''COMMENTS CONTESTING QUALIFICATION FOR A CONDUIT HYDROPOWER FACILITY'' or ''MOTION TO INTERVENE,'' as applicable; (2) state in the heading the name of the applicant and the project number of the application to which the filing responds; (3) state the name, address, and telephone number of the person filing; and (4) otherwise comply with the requirements of sections 385.2001 through 385.2005 of the Commission's regulations.[1] All comments contesting Commission staff's preliminary determination that the facility meets the qualifying criteria must set forth their evidentiary basis.

The Commission strongly encourages electronic filing. Please file motions to intervene and comments using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. A copy of all other filings in reference

[1] 18 CFR 385.2001–2005 (2014).

to this application must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b) and 385.2010.

Locations of Notice of Intent: Copies of the notice of intent can be obtained directly from the applicant or such copies can be viewed and reproduced at the Commission in its Public Reference Room, Room 2A, 888 First Street NE., Washington, DC 20426. The filing may also be viewed on the web at *http://www.ferc.gov/docs-filing/elibrary.asp* using the ''eLibrary'' link. Enter the docket number (*e.g.,* CD15–32–000) in the docket number field to access the document. For assistance, call toll-free 1–866–208–3676 or email *FERCOnlineSupport@ferc.gov.* For TTY, call (202) 502–8659.

Dated: August 21, 2015.

Kimberly D. Bose,

Secretary.

[FR Doc. 2015–21264 Filed 8–26–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 10489–014]

City of River Falls, Wisconsin; 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. *Application Type:* Extension of license term.

b. *Project No.:* 10489–014.

c. *Date Filed:* July 6, 2015.

d. *Applicant:* City of River Falls, Wisconsin.

e. *Name of Project:* River Falls Hydroelectric Project.

f. *Location:* Kinnickinnic River in Pierce County, Wisconsin.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791a–825r.

h. *Applicant Contact:* Kevin Westhuis, City of River Falls, 222 Lewis Street, River Falls, WI 54022, (715) 425–0906.

i. *FERC Contact:* Rebecca Martin, (202) 502–6012, *Rebecca.Martin@ferc.gov.*

j. *Deadline for filing comments, motions to intervene, and protests:* September 21, 2015.

All documents may be filed electronically via the Internet. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site 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,* or toll free at 1–866–208–3676, or for TTY, (202) 502–8659. Although the Commission strongly encourages electronic filing, documents may be paper-filed. To paper-file, mail an original and seven copies to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. Please include the project number (P–10489–014) on any comments or motions filed.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person whose name appears on the official service list for the project. Further, if an intervenor 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.

k. *Description of Application:* On September 27, 1988, the River Falls Project was issued a 30-year license that expires August 31, 2018. The licensee requests the Commission extend the term of the license for an additional 5 years from August 31, 2018, to August 31, 2023. The City submitted its notice of intent to relicense the project and pre-application document on November 27, 2013 and a request to use the traditional licensing process also on that date, which was granted by the Commission on January 27, 2014. Since that time, the River Falls City Council adopted resolutions that require a comprehensive river corridor planning process to determine whether to continue with the re-license or possibly surrender the project. The licensee states that it will be conducting additional studies to evaluate the potential for dam removal. The development of further study plans is expected to continue with stakeholders through 2017.

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* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field (P–10489–014) 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. 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, and .214, respectively. 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 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 commenting, 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. Any filing made by an intervenor must be accompanied by a proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 385.2010.

Dated: August 21, 2015.

Kimberly D. Bose,

Secretary.

[FR Doc. 2015–21265 Filed 8–26–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 14687–000]

Energy Resources USA Inc.; Notice of Preliminary Permit Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Competing Applications

On June 25, 2015, the Energy Resources USA Inc. filed an application for a preliminary permit under section 4(f) of the Federal Power Act proposing to study the feasibility of the proposed Lock and Dam No.11 Hydroelectric Project No. 14687–000, to be located at the existing Mississippi River Lock and Dam No. 11 on the Mississippi River, near the City of Dubuque, in Grant County, Wisconsin. The Mississippi River Lock and Dam No. 11 is owned by the United States government and operated by the U.S. Army Corps of Engineers.

The sole purpose of a preliminary permit, if issued, is to grant the permit holder priority to file a license application during the permit term. A preliminary permit does not authorize the permit holder to perform any land-disturbing activities or otherwise enter upon lands or waters owned by others without the owners' express permission.

The proposed project would consist of: (1) A new 770-foot-long by 300-foot-wide earthen intake area; (2) a new 220-foot by 90-foot concrete powerhouse containing four 2.5-megawatt hydropower turbine-generators having a total combined generating capacity of 10 megawatts; (3) one new 1000-foot-long by 220-foot-wide tailrace; (4) a new intake retaining wall and new tailrace retaining wall each measuring 85-foot-long by 43-foot-high by 3-foot-thick; (5) a new 50-foot by 60-foot switchyard; (6) a new 1.52-mile-long, 69-kilovolt transmission line; and (7) appurtenant facilities. The project would have an estimated annual generation of 119,655 megawatt-hours.

Applicant Contact: Mr. Ander Gonzalez, 2655 Le Jeune Road, Suite 804, Coral Gables, Florida 33134; telephone +34 932523840.

FERC Contact: Tyrone A. Williams, (202) 502–6331.

Deadline for filing comments, motions to intervene, competing applications (without notices of intent), or notices of intent to file competing applications: 60 days from the issuance of this notice. Competing applications and notices of intent must meet the requirements of 18 CFR 4.36. The Commission strongly encourages electronic filing. Please file comments, motions to intervene, notices of intent, and competing applications using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. The first page of any filing should include docket number P–14687–000.

More information about this project, including a copy of the application, can be viewed or printed on the ''eLibrary'' link of Commission's Web site at *http://www.ferc.gov/docs-filing/elibrary.asp.* Enter the docket number (P–14687) in the docket number field to access the document. For assistance, contact FERC Online Support at 1–866–208–3676.

Dated: August 20, 2015.

Kimberly D. Bose,

Secretary.

[FR Doc. 2015–21261 Filed 8–26–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER02–2001–019, ER13–392–000, ER11–4531–000, ER12–2514–000]

Electric Quarterly Reports: M&R Energy Resources Corp., Reliable Power, LLC, Susterra Energy, LLC; Order on Intent To Revoke Market-Based Rate Authority

Before Commissioners: Norman C. Bay, Chairman; Philip D. Moeller, Cheryl A. LaFleur, Tony Clark, and Colette D. Honorable.

1. Section 205 of the Federal Power Act (FPA), 16 U.S.C. 824d (2012), and 18 CFR part 35 (2015), require, among other things, that all rates, terms, and conditions of jurisdictional services be filed with the Commission. In Order No. 2001, the Commission revised its public utility filing requirements and established a requirement for public utilities, including power marketers, to file Electric Quarterly Reports summarizing the contractual terms and conditions in their agreements for all jurisdictional services (including market-based power sales, cost-based power sales, and transmission service) and providing transaction information (including rates) for short-term and long-term power sales during the most recent calendar quarter.[1]

2. The Commission requires sellers with market-based rate authorization to file Electric Quarterly Reports.[2] Commission staff's review of the Electric Quarterly Report submittals indicates that the following three public utilities with market-based rate authorization have failed to file their Electric Quarterly Reports: M&R Energy Resources Corp.; Reliable Power, LLC; and Susterra Energy, LLC. This order notifies these public utilities that their market-based rate authorizations will be revoked unless they comply with the Commission's requirements within 15 days of the date of issuance of this order.

3. In Order No. 2001, the Commission stated that,

> [i]f a public utility fails to file a[n] Electric Quarterly Report (without an appropriate request for extension), or fails to report an agreement in a report, that public utility may forfeit its market-based rate authority and may be required to file a new application for market-based rate authority if it wishes to resume making sales at market-based rates.[3]

4. The Commission further stated that,

> [o]nce this rule becomes effective, the requirement to comply with this rule will supersede the conditions in public utilities' market-based rate authorizations, and failure to comply with the requirements of this rule will subject public utilities to the same consequences they would face for not satisfying the conditions in their rate authorizations, including possible revocation

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[1] *Revised Public Utility Filing Requirements,* Order No. 2001, FERC Stats. & Regs. ¶ 31,127, *reh'g denied,* Order No. 2001–A, 100 FERC ¶ 61,074, *reh'g denied,* Order No. 2001–B, 100 FERC ¶ 61,342, *order directing filing,* Order No. 2001–C, 101 FERC ¶ 61,314 (2002), *order directing filing,* Order No. 2001–D, 102 FERC ¶ 61,334, *order refining filing requirements,* Order No. 2001–E, 105 FERC ¶ 61,352 (2003), *order on clarification,* Order No. 2001–F, 106 FERC ¶ 61,060 (2004), *order revising filing requirements,* Order No. 2001–G, 120 FERC ¶ 61,270, *order on reh'g and clarification,* Order No. 2001–H, 121 FERC ¶ 61,289 (2007), *order revising filing requirements,* Order No. 2001–I, FERC Stats. & Regs. ¶ 31,282 (2008).

[2] *See, e.g., Market-Based Rates for Wholesale Sales of Electric Energy, Capacity and Ancillary Services by Public Utilities,* Order No. 697, FERC Stats. & Regs. ¶ 31,252, at P 3, *clarified,* 121 FERC ¶ 61,260 (2007), *order on reh'g,* Order No. 697–A, FERC Stats. & Regs. ¶ 31,268, *clarified,* 124 FERC ¶ 61,055, *order on reh'g,* Order No. 697–B, FERC Stats. & Regs. ¶ 31,285 (2008), *order on reh'g,* Order No. 697–C, FERC Stats. & Regs. ¶ 31,291 (2009), *order on reh'g,* Order No. 697–D, FERC Stats. & Regs. ¶ 31,305 (2010), *aff'd sub nom. Mont. Consumer Counsel* v. *FERC,* 659 F.3d 910 (9th Cir. 2011), *cert. denied,* 133 S. Ct. 26 (2012).

[3] Order No. 2001, FERC Stats. & Regs. ¶ 31,127 at P 222.

of their authority to make wholesale power sales at market-based rates.[4]

5. Pursuant to these requirements, the Commission has revoked the market-based rate tariffs of market-based rate sellers that failed to submit their Electric Quarterly Reports.[5]

6. Sellers must file Electric Quarterly Reports consistent with the procedures set forth in Order Nos. 768[6] and 770.[7] The exact filing dates for Electric Quarterly Reports are prescribed in 18 CFR 35.10b (2015). As noted above, Commission staff's review of the Electric Quarterly Report submittals for the period up to the second quarter of 2015 identified three public utilities with market-based rate authorization that failed to file Electric Quarterly Reports. Commission staff contacted or attempted to contact these entities to remind them of their regulatory obligations. Despite these reminders, the public utilities listed in the caption of this order have not met these obligations. Accordingly, this order notifies these public utilities that their market-based rate authorizations will be revoked unless they comply with the Commission's requirements within 15 days of the issuance of this order.

7. In the event that any of the above-captioned market-based rate sellers has already filed its Electric Quarterly Reports in compliance with the Commission's requirements, its inclusion herein is inadvertent. Such market-based rate seller is directed, within 15 days of the date of issuance of this order, to make a filing with the Commission identifying itself and providing details about its prior filings that establish that it complied with the Commission's Electric Quarterly Report filing requirements.

8. If any of the above-captioned market-based rate sellers does not wish to continue having market-based rate authority, it may file a notice of cancellation with the Commission pursuant to section 205 of the FPA to cancel its market-based rate tariff.

The Commission orders:

(A) Within 15 days of the date of issuance of this order, each public utility listed in the caption of this order shall file with the Commission all delinquent Electric Quarterly Reports. If a public utility subject to this order fails to make the filings required in this order, the Commission will revoke that public utility's market-based rate authorization and will terminate its electric market-based rate tariff. The Secretary is hereby directed, upon expiration of the filing deadline in this order, to promptly issue a notice, effective on the date of issuance, listing the public utilities whose tariffs have been revoked for failure to comply with the requirements of this order and the Commission's Electric Quarterly Report filing requirements.

(B) The Secretary is hereby directed to publish this order in the **Federal Register**.

By the Commission.

Issued: August 21, 2015.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2015–21201 Filed 8–26–15; 8:45 am]

BILLING CODE 6717–01–P

[4] *Id.* P 223.

[5] *See, e.g., Electric Quarterly Reports,* 75 FR 63468 (Oct. 15, 2010); *Electric Quarterly Reports,* 75 FR 45111 (Aug. 2, 2010).

[6] *Electricity Market Transparency Provisions of Section 220 of the Federal Power Act,* Order No. 768, FERC Stats. & Regs. ¶ 31,336 (2012), *order on reh'g,* Order No. 768–A, 143 FERC ¶ 61,054 (2013).

[7] *Revisions to Electric Quarterly Report Filing Process,* Order No. 770, FERC Stats. & Regs. ¶ 31,338 (2012).

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:

Filing Instituting Proceedings

Docket Numbers: RP15–1133–001.
Applicants: Algonquin Gas Transmission, LLC.
Description: Tariff Amendment per 154.205(b): Amendment to RP15–1133–000 (BP NegRate) Filing to be effective 11/1/2015.
Filed Date: 8/20/15.
Accession Number: 20150820–5054.
Comments Due: 5 p.m. ET 9/1/15.

Docket Numbers: RP15–1203–000.
Applicants: Transcontinental Gas Pipe Line Company.
Description: Section 4(d) rate filing per 154.204: OFO and OC Penalties to be effective 10/1/2015.
Filed Date: 8/20/15.
Accession Number: 20150820–5178.
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 21, 2015.

Nathaniel J. Davis, Sr.,

Deputy Secretary

[FR Doc. 2015–21231 Filed 8–26–15; 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: ER13–1937–002.
Applicants: Southwest Power Pool, Inc.
Description: Compliance filing: Order No. 1000 Interregional SPP–MISO JOA Compliance Filing to be effective 3/30/2014.
Filed Date: 8/18/15.
Accession Number: 20150818–5203.
Comments Due: 5 p.m. ET 9/8/15.

Docket Numbers: ER15–2506–000.
Applicants: Southwest Power Pool, Inc.
Description: Section 205(d) Rate Filing: SPP-Western Area Power Administration Joint Operating Agreement Extension to be effective 6/21/2015.
Filed Date: 8/21/15.
Accession Number: 20150821–5158.
Comments Due: 5 p.m. ET 9/11/15.

Docket Numbers: ER15–2507–000.
Applicants: Southwest Power Pool, Inc.
Description: Section 205(d) Rate Filing: 1976R4 Kaw Valley Electric Cooperative, Inc. NITSA and NOA to be effective 8/1/2015.
Filed Date: 8/21/15.
Accession Number: 20150821–5185.
Comments Due: 5 p.m. ET 9/11/15.

Docket Numbers: ER15–2508–000.
Applicants: Southwest Power Pool, Inc.
Description: Section 205(d) Rate Filing: 2045R4 Westar Energy, Inc. NITSA and NOA to be effective 8/1/2015.
Filed Date: 8/21/15.
Accession Number: 20150821–5190.
Comments Due: 5 p.m. ET 9/11/15.

Docket Numbers: ER15–2509–000.
Applicants: PJM Interconnection, L.L.C.
Description: Section 205(d) Rate Filing: Original Service Agreement No. 4242; Queue Z1–092 (ISA) to be effective 7/23/2015.
Filed Date: 8/21/15.
Accession Number: 20150821–5193.
Comments Due: 5 p.m. ET 9/11/15.

Take notice that the Commission received the following qualifying facility filings:

Docket Numbers: QF15–978–000.
Applicants: Riverside Fuel Cell, LLC.
Description: Form 556 of Riverside Fuel Cell, LLC under QF15–978.
Filed Date: 8/19/15.
Accession Number: 20150819–5204.
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 21, 2015.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2015–21230 Filed 8–26–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER15–2483–000]

LRI Renewable Energy, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of LRI Renewable Energy, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is September 9, 2015.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for electronic review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Kimberly D. Bose,

Secretary.

[FR Doc. 2015–21263 Filed 8–26–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30Day–15–0571]

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

Minimum Data Elements (MDEs) for the National Breast and Cervical Cancer Early Detection Program (NBCCEDP) (OMB No. 0920–0571, exp. 10/31/2015)—Extension—National Center for Chronic Disease Prevention and Health

Promotion (NCCDPHP), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

Many cancer-related deaths in women could be avoided by increased utilization of appropriate screening and early detection tests for breast and cervical cancer. Mammography is extremely valuable as an early detection tool because it can detect breast cancer well before the woman can feel the lump, when the cancer is still in an early and more treatable stage. Similarly, a substantial proportion of cervical cancer-related deaths could be prevented through the detection and treatment of precancerous lesions. The Papanicolaou (Pap) test is the primary method of detecting both precancerous cervical lesions as well as invasive cervical cancer. Mammography and Pap tests are underused by women who have no source or no regular source of health care and women without health insurance.

The CDC's National Breast and Cervical Cancer Early Detection Program (NBCCEDP) provides screening services to underserved women through cooperative agreements with 50 States, the District of Columbia, 5 U.S. Territories, and 11 American Indian/Alaska Native tribal programs. The program was established in response to the Breast and Cervical Cancer Mortality Prevention Act of 1990. Screening services include clinical breast examinations, mammograms and Pap tests, as well as timely and adequate diagnostic testing for abnormal results, and referrals to treatment for cancers detected. NBCCEDP awardees collect patient-level screening and tracking data to manage the program and clinical services. A de-identified subset of data on patient demographics, screening tests and outcomes are reported by each awardee to CDC twice per year.

CDC is requesting OMB approval to collect MDE information for an additional three years. There are no changes to the currently approved minimum data elements, electronic data collection procedures, or the estimated burden. Because NBCCEDP awardees already collect and aggregate data at the state, territory and tribal level, the additional burden of submitting data to CDC will be modest. CDC will use the information to monitor and evaluate NBCCEDP awardees; improve the availability and quality of screening and diagnostic services for underserved women; develop outreach strategies for women who are never or rarely screened for breast and cervical cancer, and report program results to Congress and other legislative authorities.

There are no costs to respondents other than their time. The total estimated annualized burden hours are 536.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hrs.)
NBCCEDP Awardees	Minimum Data Elements	67	2	4

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. 2015–21248 Filed 8–26–15; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

National Center for Health Statistics (NCHS), Classifications and Public Health Data Standards Staff; Meeting

Name: ICD–10 Coordination and Maintenance (C&M) Committee meeting.

Times and Dates: 9 a.m.–5 p.m., September 22–23, 2015.

Place: Centers for Medicare and Medicaid Services (CMS) Auditorium, 7500 Security Boulevard, Baltimore, Maryland 21244.

Status: Open to the public, limited only by the space available. The meeting room accommodates approximately 240 people. We will be broadcasting the meeting live via Webcast at *hhtp://www.cms.gov/live/*.

Security Considerations: Due to increased security requirements CMS has instituted stringent procedures for entrance into the building by non-government employees. Attendees will need to present valid government-issued picture identification, and sign-in at the security desk upon entering the building.

Attendees who wish to attend the September 22–23, 2015 ICD–10–CM C&M meeting must submit their name and organization by September 11, 2015 for inclusion on the visitor list. This visitor list will be maintained at the front desk of the CMS building and used by the guards to admit visitors to the meeting.

Please register to attend the meeting on-line at: *http://www.cms.hhs.gov/apps/events/*. Please contact Mady Hue (410–786–4510 or *Marilu.hue@cms.hhs.gov*), for questions about the registration process.

Participants who attended previous Coordination and Maintenance meetings will no longer be automatically added to the visitor list. You must request inclusion of your name prior to each meeting you wish attend.

Purpose: The ICD–10 Coordination and Maintenance (C&M) Committee is a public forum for the presentation of proposed modifications to the International Classification of Diseases, Tenth Revision, Clinical Modification and ICD–10 Procedure Coding System.

Matters To Be Discussed: Agenda items include:

September 22–23, 2015

ICD–10–PCS Topics:
Branched and Fenestrated Endograft Repair of Aortic Aneurysms
Cerebral Embolic Protection during Transcatheter Aortic Valve Replacement (TAVR)
Endovascular Repair of Aortic Aneurysm via Entire Sac-Sealing
Leadless Pacemakers
Repair of Total Anomalous Pulmonary Venous Return (TAPVR) Addenda Updates
ICD–10–CM Diagnosis Topics:
Acute Kidney Injury (AKI)
Amyotrophic Lateral Sclerosis (ALS)
Amblyopia
Asthma
Blindness/Low vision
Caries Risk Levels
Chronic kidney disease (CKD)
Epilepsy
External cause codes for over exertion; repetitive motion
Heart Failure
Hypophosphatasia
Lysosomal acid lipase
Non-exudative AMD
Prolapse vaginal vault
ICD–10–CM Addendum

Agenda items are subject to change as priorities dictate.

Note: CMS and NCHS no longer provide paper copies of handouts for the meeting. Electronic copies of all meeting materials will be posted on the CMS and NCHS Web sites prior to the meeting at *http://www.cms.hhs.gov/ICD9ProviderDiagnosticCodes/03_meetings.asp#TopOfPage* and *http://www.cdc.gov/nchs/icd/icd9cm_maintenance.htm.*

Contact Persons For Additional Information: Donna Pickett, Medical Systems Administrator, Classifications and Public Health Data Standards Staff, NCHS, 3311 Toledo Road, Hyattsville, Maryland 20782, email *dfp4@cdc.gov,* telephone 301–458–4434 (diagnosis); Mady Hue, Health Insurance Specialist, Division of Acute Care, CMS, 7500 Security Boulevard, Baltimore, Maryland 21244, email *marilu.hue@cms.hhs.gov,* telephone 410–786–4510 (procedures).

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention, and the Agency for Toxic Substances and Disease Registry.

Catherine Ramadei,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 2015–21160 Filed 8–26–15; 8:45 am]

BILLING CODE 4160–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2014–D–0852]

Design and Analysis of Shedding Studies for Virus or Bacteria-Based Gene Therapy and Oncolytic Products; Guidance for Industry; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing the availability of a document entitled ''Design and Analysis of Shedding Studies for Virus or Bacteria-Based Gene Therapy and Oncolytic Products; Guidance for Industry.'' The guidance document provides sponsors of virus or bacteria-based gene therapy products (VBGT products) and oncolytic viruses or bacteria (oncolytic products) with recommendations on how to conduct shedding studies during preclinical and clinical development. The guidance announced in this notice finalizes the draft guidance of the same title dated July 2014.

DATES: Submit either electronic or written comments on Agency guidances at any time.

ADDRESSES: Submit written requests for single copies of the guidance to the Office of Communication, Outreach and Development, Center for Biologics Evaluation and Research (CBER), Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 3128, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist the office in processing your requests. The guidance may also be obtained by mail by calling CBER at 1–800–835–4709 or 240–402–8010. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the guidance document.

Submit electronic comments on the guidance to *http://www.regulations.gov.* Submit written comments to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Tami Belouin, Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 7301, Silver Spring, MD 20993–0002, 240–402–7911.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a document entitled ''Design and Analysis of Shedding Studies for Virus or Bacteria-Based Gene Therapy and Oncolytic Products; Guidance for Industry.'' The guidance provides sponsors of VBGT and oncolytic products with recommendations on how to conduct shedding studies during preclinical and clinical development. VBGT and oncolytic products are derived from infectious viruses or bacteria. In general, these product-based viruses and bacteria are not as infectious or as virulent as the parent strain of virus or bacterium. Nonetheless, FDA is issuing this guidance because the possibility that infectious product-based viruses and bacteria may be shed by a patient raises safety concerns related to the risk of transmission to untreated individuals. To understand the risk associated with product shedding, sponsors should collect data in the target patient population in clinical trials before licensure.

In the **Federal Register** of July 9, 2014 (79 FR 38908), FDA announced the availability of the draft guidance of the same title. FDA received a few comments on the draft guidance and those comments were considered as the guidance was finalized. A summary of changes includes reorganization of and within certain sections of the guidance, and addition of new bullet points and information to address specific questions raised in the comments and at the November 6, 2014, meeting of the Cellular, Tissue, and Gene Therapies Advisory Committee. In addition, editorial changes were made to improve clarity. The guidance announced in this notice finalizes the draft guidance of the same title dated July 2014.

This guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The guidance represents the current thinking of FDA on design and analysis of shedding studies for virus or bacteria-based gene therapy and oncolytic products. It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations.

II. Paperwork Reduction Act of 1995

This guidance refers to previously approved collections of information found in FDA regulations. These collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The collections of information in 21 CFR part 312 have been approved under OMB control number 0910–0014; the collections of information in 21 CFR part 600 have been approved under OMB control number 0910–0308; the collections of information in 21 CFR part 601 have been approved under OMB control number 0910–0338; and the collections of information in 21 CFR part 50 have been approved under OMB control number 0910–0755.

III. Comments

Interested persons may submit either electronic comments regarding this document to *http://www.regulations.gov* or written comments to the Division of Dockets Management (see **ADDRESSES**). It is only necessary to send one set of comments. Identify comments with the docket number found in brackets in the heading of this document. Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday, and will be posted to the docket at *http://www.regulations.gov.*

IV. Electronic Access

Persons with access to the Internet may obtain the guidance at either *http://www.fda.gov/BiologicsBloodVaccines/GuidanceComplianceRegulatoryInformation/Guidances/default.htm* or *http://www.regulations.gov.*

Dated: August 21, 2015.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2015–21235 Filed 8–26–15; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2015–N–0002]

Determination That BIAXIN XL Oral Tablets Were Not Withdrawn From Sale for Reasons of Safety or Effectiveness

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined that the drug products listed in this document were not withdrawn from sale for reasons of safety or effectiveness. This determination means that FDA will not begin procedures to withdraw approval of abbreviated new drug applications (ANDAs) that refer to these drug products, and it will allow FDA to continue to approve ANDAs that refer to the products as long as they meet relevant legal and regulatory requirements.

FOR FURTHER INFORMATION CONTACT: Stacy Kane, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave. Bldg. 51, Rm. 6207, Silver Spring, MD 20993–0002, 301–796–8363.

SUPPLEMENTARY INFORMATION: In 1984, Congress enacted the Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98–417) (the 1984 amendments), which authorized the approval of duplicate versions of drug products approved under an ANDA procedure. ANDA sponsors must, with certain exceptions, show that the drug for which they are seeking approval contains the same active ingredient in the same strength and dosage form as the ''listed drug,'' which is a version of the drug that was previously approved. Sponsors of ANDAs do not have to repeat the extensive clinical testing otherwise necessary to gain approval of a new drug application (NDA).

The 1984 amendments include what is now section 505(j)(7) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(j)(7)), which requires FDA to publish a list of all approved drugs. FDA publishes this list as part of the ''Approved Drug Products With Therapeutic Equivalence Evaluations,'' which is generally known as the ''Orange Book.'' Under FDA regulations, a drug is removed from the list if the Agency withdraws or suspends approval of the drug's NDA or ANDA for reasons of safety or effectiveness, or if FDA determines that the listed drug was withdrawn from sale for reasons of safety or effectiveness (21 CFR 314.162).

Under § 314.161(a) (21 CFR 314.161(a)), the Agency must determine whether a listed drug was withdrawn from sale for reasons of safety or effectiveness: (1) Before an ANDA that refers to that listed drug may be approved, (2) whenever a listed drug is voluntarily withdrawn from sale and ANDAs that refer to the listed drug have been approved, and (3) when a person petitions for such a determination under 21 CFR 10.25(a) and 10.30. Section 314.161(d) provides that if FDA determines that a listed drug was withdrawn from sale for safety or effectiveness reasons, the Agency will initiate proceedings that could result in the withdrawal of approval of the ANDAs that refer to the listed drug.

FDA has become aware that the drug products listed in the table in this document are no longer being marketed.

Application No.	Drug	Applicant
NDA 050775	BIAXIN XL Tablet; Oral 500 mg	AbbVie Inc., 1 North Waukegan Road, North Chicago, IL 60064

FDA has reviewed its records and, under § 314.161, has determined that the drug products listed in this document were not withdrawn from sale for reasons of safety or effectiveness. Accordingly, the Agency will continue to list the drug products listed in this document in the ''Discontinued Drug Product List'' section of the Orange Book. The ''Discontinued Drug Product List'' identifies, among other items, drug products that have been discontinued from marketing for reasons other than safety or effectiveness.

Approved ANDAs that refer to the NDAs and ANDAs listed in this document are unaffected by the discontinued marketing of the products subject to those NDAs and ANDAs. Additional ANDAs that refer to these products may also be approved by the Agency if they comply with relevant legal and regulatory requirements. If FDA determines that labeling for these drug products should be revised to meet current standards, the Agency will advise ANDA applicants to submit such labeling.

Dated: August 21, 2015.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2015–21236 Filed 8–26–15; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of a meeting of the Board of Scientific Counselors, NIA.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public as indicated below in accordance with the provisions set forth in section 552b(c)(6), Title 5 U.S.C., as amended for the review, discussion, and evaluation of individual intramural programs and projects conducted by the NATIONAL INSTITUTE ON AGING, including consideration of personnel qualifications and performance, and the competence of individual investigators, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Board of Scientific Counselors, NIA.

Date: October 13, 2015.

Closed: 7:30 a.m. to 7:45 a.m.

Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.

Place: National Institute on Aging, Biomedical Research Center, 3rd Floor Conference Room, 251 Bayview Boulevard, Baltimore, MD 21224.

Open: 7:45 a.m. to 11:30 a.m.

Agenda: Committee discussion, individual presentations, laboratory overview.

Place: National Institute on Aging, Biomedical Research Center, 3rd Floor Conference Room, 251 Bayview Boulevard, Baltimore, MD 21224.

Closed: 11:30 a.m. to 1:00 p.m.

Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.

Place: National Institute on Aging, Biomedical Research Center, 3rd Floor Conference Room, 251 Bayview Boulevard, Baltimore, MD 21224.

Open 1:00 p.m. to 5:00 p.m.

Agenda: Committee discussion, individual presentations, laboratory overview.

Place: National Institute on Aging, Biomedical Research Center, 3rd Floor Conference Room, 251 Bayview Boulevard, Baltimore, MD 21224.

Closed: 5:00 p.m. to 6:00 p.m.

Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.

Place: National Institute on Aging, Biomedical Research Center, 3rd Floor Conference Room, 251 Bayview Boulevard, Baltimore, MD 21224.

Contact: Luigi Ferrucci, Ph.D., MD, Scientific Director, National Institute on Aging, 251 Bayview Boulevard, Suite 100, Room 4C225, Baltimore, MD 21224, 410–558–8110, *LF27Z@NIH.GOV.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: August 21, 2015.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2015–21221 Filed 8–26–15; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Center for Complementary & Integrative Health Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Center for Complementary and Integrative Health Special Emphasis Panel ''Clinical Research on Mind-Body Interventions (R34)''.

Date: November 6, 2015.

Time: 12:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Democracy Two, Suite 401, 6707 Democracy Boulevard, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Hungyi Shau, Ph.D., Scientific Review Officer, National Center for Complementary and Integrative Health, National Institutes of Health, 6707 Democracy Boulevard, Suite 401, Bethesda, MD 20892, 301–480–9504, *Hungyi.Shau@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.213, Research and Training in Complementary and Alternative Medicine, National Institutes of Health, HHS)

Dated: August 21, 2015.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2015–21223 Filed 8–26–15; 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 Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Aging Special Emphasis Panel; Sedentary Behavior and Aging.

Date: September 24, 2015.

Time: 2:00 p.m. to 6:00 p.m.

Agenda: To review and evaluate contract proposals.

Place: National Institute on Aging, Gateway Building, 2C212, 7201 Wisconsin Avenue, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Isis S. Mikhail, DRPH, MD, MPH, National Institute on Aging, Gateway Building, 7201 Wisconsin Avenue, Suite 2C212, Bethesda, MD 20892, 301–402–7704, *MIKHAILI@MAIL.NIH.GOV.*

Name of Committee: National Institute on Aging Special Emphasis Panel; CVD Disease in Aging.

Date: September 30, 2015.

Time: 12:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate contract proposals.

Place: National Institute on Aging, Gateway Building, 2C212, 7201 Wisconsin Avenue, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Alicja L. Markowska, DSC, Ph.D., Scientific Review Branch, National Institute on Aging, 7201 Wisconsin Avenue, Suite 2C212, Bethesda, MD 20892, 301–496–9666, *markowsa@nia.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: August 24, 2015.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2015–21241 Filed 8–26–15; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute Amended; Notice of Meeting

Notice is hereby given of a change in the meeting of the National Cancer Advisory Board, September 16, 2015, 01:00 p.m. to September 16, 2015, 03:00 p.m., National Cancer Institute Shady Grove, 9609 Medical Center Drive, Rockville, MD, 20850 which was published in the **Federal Register** on August 18, 2015, 80FR50016.

This meeting is being amended to change the end time of the Open Session on September 16, 2015 from 2:00 p.m. to 1:30 p.m. and the Closed Session time from 2:00 p.m. to 3:30 p.m. to 1:30 p.m. to 3:00 p.m. The meeting is partially Closed to the public.

Dated: August 21, 2015.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2015–21225 Filed 8–26–15; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Center for Complementary and Integrative Health; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial

property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Center for Complementary and Integrative Health Special Emphasis Panel; ''Methods Development in Natural Product Chemistry SBIR/STTR.''

Date: October 29, 2015.

Time: 12:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Democracy Two 401, 6707 Democracy Boulevard, Bethesda, MD (Virtual Meeting).

Contact Person: Hungyi Shau, Ph.D., Scientific Review Officer, National Center for Complementary and Integrative Health, National Institutes of Health, 6707 Democracy Boulevard, Suite 401, Bethesda, MD 20892, 301–480–9504, *Hungyi.Shau@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.213, Research and Training in Complementary and Alternative Medicine, National Institutes of Health, HHS)

Dated: August 21, 2015.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2015–21224 Filed 8–26–15; 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; Juvenile Protective Factor (JPF).

Date: October 1, 2015.

Time: 8:00 a.m. to 10:00 a.m.

Agenda: To review and evaluate grant applications.

Place: DoubleTree by Hilton Bethesda, 8120 Wisconsin Avenue, Bethesda, MD, (Telephone Conference Call).

Contact Person: Bita Nakhai, Ph.D., Scientific Review Branch, National Institute on Aging, Gateway Bldg., 2C212, 7201 Wisconsin Avenue, Bethesda, MD 20814, 301–402–7701, *nakhaib@nia.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: August 24, 2015.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2015–21240 Filed 8–26–15; 8:45 am]

BILLING CODE 4140–01P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Brain Disorders and Clinical Neuroscience Integrated Review Group; Pathophysiological Basis of Mental Disorders and Addictions Study Section.

Date: October 1–2, 2015.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites Baltimore, 222 St. Paul Place, Baltimore, MD 21202.

Contact Person: Boris P. Sokolov, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5217A, MSC 7846, Bethesda, MD 20892, 301–408–9115, *bsokolov@csr.nih.gov.*

Name of Committee: Risk, Prevention and Health Behavior Integrated Review Group; Interventions to Prevent and Treat Addictions Study Section.

Date: October 8–9, 2015.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Palomar Hotel, 2121 P Street NW., Washington, DC 20037.

Contact Person: Miriam Mintzer, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive Room 3108, Bethesda, MD 20892, (301) 523–0646 *mintzermz@csr.nih.gov.*

Name of Committee: Integrative, Functional and Cognitive Neuroscience Integrated Review Group; Auditory System Study Section.

Date: October 8–9, 2015.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Washington Plaza Hotel, 10 Thomas Circle NW., Washington, DC 20005.

Contact Person: Lynn E. Luethke, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5166, MSC 7844, Bethesda, MD 20892, (301) 806–3323 *luethkel@csr.nih.gov.*

Name of Committee: Brain Disorders and Clinical Neuroscience Integrated Review Group; Neural Basis of Psychopathology, Addictions and Sleep Disorders Study Section.

Date: October 8–9, 2015.

Time: 8:30 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Residence Inn Washington, DC Downtown, 1199 Vermont Avenue NW., Washington, DC.

Contact Person: Julius Cinque, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5186, MSC 7846, Bethesda, MD 20892, *cinquej@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Enabling Bioanalytical and Imaging Technologies.

Date: October 8, 2015.

Time: 11:00 a.m. to 2:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Vonda K. Smith, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6188, MSC 7892, Bethesda, MD 20892, 301–435–1789, *smithvo@csr.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: August 24, 2015.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2015–21270 Filed 8–26–15; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Center for Scientific Review Special Emphasis Panel, September 24, 2015, 10:00 a.m. to September 24, 2015, 6:00 p.m., National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD, 20892 which was published in the **Federal Register** on August 17, 2015, 80 FR 49252.

The meeting will be held on October 21, 2015. The meeting location and time remain the same. The meeting is closed to the public.

Dated: August 24, 2015.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2015–21269 Filed 8–26–15; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Clinical Center; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of a meeting of the NIH Advisory Board for Clinical Research.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public in accordance with the provisions set forth in section 552b(c)(9)(B), Title 5 U.S.C., as amended because the premature disclosure of to discuss personnel matters and the discussions would likely to significantly frustrate implementation of recommendations.

Name of Committee: NIH Advisory Board for Clinical Research.

Date: September 28, 2015.

Open: 10:00 a.m. to 1:00 p.m.

Agenda: Discussion of intramural clinical research operational and funding issues.

Place: National Institutes of Health, Building 10, CRC Medical Board Room 4–2551, 10 Center Drive, Bethesda, MD 20892.

Closed: 1:00 p.m. to 2:00 p.m.

Agenda: Discussion of personnel matters and/or issues of which the premature discloser may affect outcomes.

Place: National Institutes of Health, Building 10, CRC Medical Board Room 4–2551, 10 Center Drive, Bethesda, MD 20892.

Contact Person: Maureen E. Gormley, Executive Secretary, Mark O. Hatfield Clinical Research Center, National Institutes of Health, Building 10, Room 6–2551, Bethesda, MD 20892 (301) 496–2897.

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

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.

Dated: August 21, 2015.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2015–21222 Filed 8–26–15; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Modification of National Customs Automation Program (NCAP) Test Concerning the Submission of Certain Data Required by the Food and Drug Administration (FDA) Using the Partner Government Agency (PGA) Message Set Through the Automated Commercial Environment (ACE)

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: General notice.

SUMMARY: This document announces U.S. Customs and Border Protection's (CBP's) plan to conduct a National Customs Automation Program (NCAP) test concerning the electronic transmission of certain import data for all Food and Drug Administration (FDA)-regulated commodities. Under the pilot, this data will be transmitted electronically through the Automated Broker Interface (ABI) for processing in CBP's Automated Commercial Environment (ACE) system utilizing the Partnering Government Agency (PGA) Message Set.

DATES: The FDA PGA Message Set test will begin no earlier than August 27, 2015. This test will continue until concluded by way of announcement in the **Federal Register**. Public comments are invited and will be accepted through the duration of the test pilot.

ADDRESSES: Comments concerning this notice and any aspect of this test may be submitted at any time during the test via email to Josephine Baiamonte, ACE Business Office (ABO), Office of International Trade, at *josephine.baiamonte@cbp.dhs.gov.* In the subject line of your email, please indicate, ''*Comment on FDA PGA Message Set Test FRN''.*

FOR FURTHER INFORMATION CONTACT: For PGA-related questions, contact Elizabeth McQueen at *elizabeth.mcqueen@cbp.dhs.gov.* For technical questions related to the Automated Commercial Environment (ACE) or Automated Broker Interface (ABI) transmissions, contact your assigned client representative. Interested parties without an assigned client representative should direct their questions to Steven Zaccaro at *steven.j.zaccaro@cbp.dhs.gov* with the subject heading ''*PGA Message Set FDA Test FRN-Request to Participate.''* For FDA-related questions, contact Sandra Abbott at *sandra.abbott@fda.hhs.gov* or Max Castillo at *max.castillo@fda.hhs.gov.*

Any party seeking to participate in this test must provide CBP, in its request to participate, its filer code and the port(s) at which it is interested in filing the appropriate PGA Message Set information. At this time, PGA Message Set data may be submitted only for entries filed at certain ports. A current listing of those ports may be found at the following link: *http://www.cbp.gov/document/guidance/list-aceitds-pga-message-set-pilot-ports.*

SUPPLEMENTARY INFORMATION:

I. Background

The National Customs Automation Program (NCAP) was established in Subtitle B of Title VI—Customs Modernization (Customs Modernization Act), in the North American Free Trade Agreement Implementation Act, Public Law 103–182, 107 Stat. 2057 (19 U.S.C. 1411). Through NCAP, the initial thrust of customs modernization was on trade compliance and the development of the Automated Commercial Environment (ACE), the planned successor to the Automated Commercial System (ACS). ACE is an automated and electronic system for processing commercial trade data which is intended to streamline business processes, facilitate growth in trade, ensure cargo security, and foster participation in global commerce, while

ensuring compliance with U.S. laws and regulations and reducing costs for U.S. Customs and Border Protection (CBP) and all of its communities of interest. The ability to meet these objectives depends on successfully modernizing CBP's business functions and the information technology that supports those functions. The Automated Broker Interface (ABI) is the electronic data interchange (EDI) that enables members of the trade community to file electronically required import data with CBP and transfers that data to ACE.

CBP's modernization efforts are accomplished through phased releases of ACE component functionality designed to replace specific legacy ACS functions. Each release will begin with a test and will end with mandatory use of the new ACE feature, thus retiring the legacy ACS function. Each release builds on previous releases and sets the foundation for subsequent releases.

For the convenience of the public, a chronological listing of **Federal Register** publications detailing ACE test developments is set forth below in Section XV, entitled, ''Development of ACE Prototypes.'' The procedures and criteria related to participation in the prior ACE test pilots remain in effect unless otherwise explicitly changed by this or subsequent notices published in the **Federal Register**.

II. Authorization for the Test

The Customs Modernization Act provisions provide the Commissioner of CBP with authority to conduct limited test programs or procedures designed to evaluate planned components of the NCAP. The test described in this notice is authorized pursuant to § 101.9(b) of title 19 of the Code of Federal Regulations (19 CFR 101.9(b)) which provides for the testing of NCAP programs or procedures. *See* Treasury Decision (T.D.) 95–21.

III. International Trade Data System (ITDS)

This test is also in furtherance of the International Trade Data System (ITDS) key initiatives, set forth in section 405 of the Security and Accountability for Every Port Act of 2006 (''SAFE Port Act''), Sec. 405, Public Law 109–347, 120 Stat. 1884 (19 U.S.C. 1411(d)) and in Executive Order 13659 of February 19, 2014, *Streamlining the Export/Import Process for America's Businesses,* 79 FR 10657 (February 25, 2014). The purpose of ITDS, as stated in section 405 of the SAFE Port Act, is to eliminate redundant information requirements, efficiently regulate the flow of commerce, and effectively enforce laws and regulations relating to international trade, by establishing a single portal system, operated by CBP, for the collection and distribution of standard electronic import and export data required by all participating Federal agencies. CBP is developing ACE as the ''single window'' for the trade community to comply with the ITDS requirement established by the SAFE Port Act.

Executive Order 13659 requires that by December 31, 2016, ACE, as the ITDS single window, have the operational capabilities to serve as the primary means of receiving from users the standard set of data and other relevant documentation (exclusive of applications for permits, licenses, or certifications) required for the release of imported cargo and clearance of cargo for export, and to transition from paper-based requirements and procedures to faster and more cost-effective electronic submissions to, and communications with, U.S. government agencies.

IV. Partner Government Agency (PGA) Message Set

The PGA Message Set is the data needed to satisfy the PGA reporting requirements. ACE enables the message set by acting as the ''single window'' for the submission of trade-related data required by the PGAs only once to CBP. Once validated, the data will be made available to the relevant PGAs involved in import, export, and transportation-related decision making. The data will be used to fulfill merchandise entry requirements and may allow for earlier release decisions and more certainty for the importer in determining the logistics of cargo delivery. Also, by virtue of being electronic, the PGA Message Set will eliminate the necessity for the submission and subsequent handling of paper documents.

At this time, a limited number of ports of entry will be accepting FDA PGA Message Set data. A list of those ports is provided at the following link: *http://www.cbp.gov/document/guidance/list-aceitds-pga-message-set-pilot-ports.* CBP may expand the list of ports accepting FDA PGA Message Set data in the future. Any expansion to include additional ports will be published on the aforementioned link.

V. The Food and Drug Administration PGA Message Set Test

Section 801 of the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 381) authorizes the Secretary of Health and Human Services (HHS), through the FDA, to make admissibility decisions for FDA-regulated commodities (foods, drugs, cosmetics, medical devices, and tobacco products), and prior notice risk and threat assessment decisions for imported food products. Moreover, section 536 of the FD&C Act (21 U.S.C. 360mm) and 42 U.S.C. 264 provide similar authority for radiation emitting products and human cell, tissue, and cellular and tissue-based products (HCT/Ps). Carrying out these responsibilities involves close coordination and cooperation between the FDA and CBP.

Until October 1998, importers were required to file manual entries on Office of Management and Budget (OMB)-approved forms which were accompanied by related documents. Thereafter, the FDA implemented an automated nationwide entry processing system known as the ''Operational and Administrative System for Import Support (OASIS)'' that enabled the FDA to more efficiently obtain and process the information it requires to fulfill its regulatory responsibilities. Most of the data that the FDA requires to make admissibility and prior notice-related decisions regarding imported products is already provided electronically by importers and entry filers to CBP. Since CBP relays the entry data to the FDA using an electronic interface as discussed below, most of the data submitted by an importer or entry filer need be completed only once.

Information for commercial entries for shipments of FDA-regulated products that are imported or offered for import into the United States is submitted by the importer (or his or her agent) or entry filer through CBP's Automated Broker Interface of the Automated Commercial System (ABI/ACS) into OASIS. For imported foods and feeds, this process includes the submission of prior notice information, which is reviewed for targeting higher-risk shipments for examination by the FDA or CBP upon arrival at the port of entry. With respect to the transmission of entry information, the FDA reviews relevant data as part of its admissibility review. The FDA sends a message back to the importer or entry filer with its decision as to whether (1) the product is admissible; (2) additional information is required; (3) an examination of the shipment is required; or (4) the shipment is subject to refusal of admission.

In December of 2011, the FDA fully implemented its new admissibility targeting application called ''Predictive Risk-based Evaluation for Dynamic Import Compliance Targeting,'' commonly known as ''PREDICT.'' PREDICT screens all entries, identifies shipments based on risk, and facilitates FDA's ability to determine whether products should be examined or

allowed into the commerce of the United States. After this screening is completed, if PREDICT recommends the product be admitted into the United States, real time notification is provided to the importer or entry filer through OASIS.

In addition to the entry information collected by CBP, the FDA uses additional data elements in order to make an admissibility decision. This information includes the following data elements:

(1) FDA product code;

(2) FDA country of production;

(3) FDA-required information on the manufacturer and shipper; and

(4) Ultimate consignee.

Additionally, the FDA has identified data elements or Affirmation of Compliance (''A of C'') codes that an importer or entry filer may submit upon entry to help expedite the review process. For example, providing the registration number of the manufacture as an A of C may result in an immediate release of the product. Alternatively, an entry filed without the A of C code would be flagged for review and release may be delayed.

If the FDA did not collect this data the agency could not adequately meet its statutory responsibilities to regulate imported products, nor control potentially dangerous products from entering the U.S. marketplace.

This document announces CBP's plan to conduct a new test pilot concerning the submission of electronic FDA data elements required by the FDA's cargo admissibility process under the auspices of ACE for those commodities regulated by the FDA that are being imported or offered for import into the United States. This new FDA PGA Message Set capability will satisfy the FDA data requirements for formal and informal consumption entries through electronic filing in ACE and via the FDA PGA Message Set. This will enable the trade community to have a CBP-managed ''single window'' for the submission of data required by the FDA during the cargo importation and review process. For FDA-regulated food products requiring prior notice, the necessary PGA data elements must be submitted prior to the time of arrival of the merchandise. The technical requirements for submitting FDA data elements are set forth in the supplemental Customs and Trade Automated Interface Requirements (CATAIR) guidelines for the FDA. These technical requirements, including the ACE CATAIR chapters, can be found at the following link: *http://www.cbp.gov/trade/ace/catair#field-content-tab-group-tab-4.*

Upon successful completion of the FDA PGA Message Set test, it is anticipated that CBP will decommission the legacy ACS/OASIS interface for the new ACE/OASIS interface.

VI. Test Participant Responsibilities

PGA Message Set test participants will be required to:

(1) Transmit the appropriate ACE PGA Message Set data, including the additional data elements listed in Section V of this notice, for the commodities and the ports of entry based upon the implementation schedule found at the following link: *http://www.cbp.gov/document/guidance/list-aceitds-pga-message-set-pilot-ports;*

(2) Transmit the PGA Message Set electronically to ACE using ACE Entry or ACE Entry Summary at any time prior to the arrival of the merchandise on the conveyance transporting the cargo to the United States;

(3) Transmit PGA Message Set import filings only as part of an ACE Entry or ACE Entry Summary certified for cargo release;

(4) Transmit import entry filings to CBP via ABI in response to a request for documentation or in response to a request for release information for certified ACE Entry Summaries;

(5) Only transmit to CBP information that has been requested by either CBP or the FDA;

(6) Use a software program that has completed ACE certification testing for the PGA Message Set; and

(7) Take part in a CBP–FDA evaluation of this test.

VII. Waiver of Regulation Under the Test

For purposes of this test, those provisions of 19 CFR part 12 that are inconsistent with the terms of this test are waived for test participants only. See 19 CFR 101.9(b). This document does not waive any recordkeeping requirements found in part 163 of title 19 of the Code of Federal Regulations (19 CFR part 163) and the Appendix to part 163 (commonly known as the ''(a)(1)(A) list'').

VIII. Test Participation and Selection Criteria

To be eligible to apply for this test, the applicant must:

(1) Be a self-filing importer who has the ability to file ACE Entry Summaries certified for cargo release or a broker who has the ability to file ACE Entry Summaries certified for cargo release; and

(2) File prior notices or entries for FDA-regulated commodities.

Test participants must meet all the eligibility criteria described in this document in order to participate in the test program.

IX. Application Process

Any party seeking to participate in the FDA PGA Message Set test should email their CBP Client Representative, ACE Business Office (ABO), Office of International Trade. Interested parties without an assigned client representative should submit an email message to Steven Zaccaro at *steven.j.zaccaro@cbp.dhs.gov* with the subject heading ''*PGA Message Set FDA Test FRN—Request to Participate''.* All email communications should include the subject heading, ''*Request to Participate in the FDA PGA Message Test.''*

Email messages sent to the CBP client representative or Steven Zaccaro must include the applicant's filer code and the port(s) at which it is interested in filing the appropriate PGA Message Set information. Client representatives will work with test participants to provide information regarding the transmission of this data.

CBP will begin to accept applications upon the date of publication of this notice and will continue to accept applications throughout the duration of the test. CBP will notify the selected applicants by an email message of their selection and the starting date of their participation. Selected participants may have different starting dates. Anyone providing incomplete information, or otherwise not meeting participation requirements, will be notified by an email message and given the opportunity to resubmit its application.

X. Test Duration

The initial phase of the pilot test will begin no earlier than August 27, 2015. At the conclusion of the test pilot, an evaluation will be conducted to assess the effect that the FDA PGA Message Set has on expediting the submission of FDA importation-related data elements and the processing of FDA entries. The final results of the evaluation will be published in the **Federal Register** and the *Customs Bulletin* as required by § 101.9(b)(2) of the CBP regulations (19 CFR 101.9(b)(2)). Any future expansion in ACE including but not limited to any additional PGA commodities and eligible environments (*i.e.,* truck, ocean, rail, air) will be announced via a separate **Federal Register** notice.

XI. Comments

All interested parties are invited to comment on any aspect of this test at any time. CBP requests comments and

feedback on all aspects of this test, including the design, conduct and implementation of the test, in order to determine whether to modify, alter, expand, limit, continue, end, or fully implement this program.

XII. Paperwork Reduction Act

The collection of information contained in this FDA PGA Message Set test has been approved by the Office of Management and Budget (OMB) in accordance with the requirements of the Paperwork Reduction Act (44 U.S.C. 3507) and assigned OMB control number 0910–0046. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by OMB.

XIII. Confidentiality

Data submitted and entered into the ACE Portal includes information that is exempt or restricted from disclosure by law, such as by the Trade Secrets Act (18 U.S.C. 1905). As stated in previous notices, participation in this or any of the previous ACE tests is not confidential and upon a written Freedom of Information Act (FOIA) request, a name(s) of an approved participant(s) will be disclosed by CBP in accordance with 5 U.S.C. 552.

XIV. Misconduct Under the Test

A test participant may be subject to civil and criminal penalties, administrative sanctions, liquidated damages, or discontinuance from participation in this test for any of the following:

(1) Failure to follow the terms and conditions of this test;

(2) Failure to exercise reasonable care in the execution of participant obligations;

(3) Failure to abide by applicable laws and regulations that have not been waived; or

(4) Failure to deposit duties or fees in a timely manner.

If the Director, Business Transformation, ACE Business Office (ABO), Office of International Trade, finds that there is a basis for discontinuance of test participation privileges, the test participant will be provided a written notice proposing the discontinuance with a description of the facts or conduct warranting the action. The test participant will be offered the opportunity to appeal the Director's decision in writing within 10 calendar days of receipt of the written notice. The appeal must be submitted to Acting Executive Director, ABO, Office of International Trade, by emailing *Deborah.Augustin@cbp.dhs.gov.*

The Acting Executive Director will issue a decision in writing on the proposed action within 30 working days after receiving a timely filed appeal from the test participant. If no timely appeal is received, the proposed notice becomes the final decision of the Agency as of the date that the appeal period expires. A proposed discontinuance of a test participant's privileges will not take effect unless the appeal process under this paragraph has been concluded with a written decision adverse to the test participant.

In the case of willfulness or those in which public health, interest, or safety so requires, the Director, Business Transformation, ABO, Office of International Trade, may immediately discontinue the test participant's privileges upon written notice to the test participant. The notice will contain a description of the facts or conduct warranting the immediate action. The test participant will be offered the opportunity to appeal the Director's decision within 10 calendar days of receipt of the written notice providing for immediate discontinuance. The appeal must be submitted to Acting Executive Director, ABO, Office of International Trade, by emailing *Deborah.Augustin@cbp.dhs.gov.* The immediate discontinuance will remain in effect during the appeal period. The Executive Director will issue a decision in writing on the discontinuance within 15 working days after receiving a timely filed appeal from the test participant. If no timely appeal is received, the notice becomes the final decision of the Agency as of the date that the appeal period expires.

XV. Developments of ACE Prototypes

A chronological listing of **Federal Register** publications detailing ACE test developments is set forth below:

- ACE Portal Accounts and Subsequent Revision Notices: 67 FR 21800 (May 1, 2002); 69 FR 5360 and 69 FR 5362 (February 4, 2004); 69 FR 54302 (September 8, 2004); 70 FR 5199 (February 1, 2005).
- ACE System of Records Notice: 71 FR 3109 (January 19, 2006).
- Terms/Conditions for Access to the ACE Portal and Subsequent Revisions: 72 FR 27632 (May 16, 2007); 73 FR 38464 (July 7, 2008).
- ACE Non-Portal Accounts and Related Notice: 70 FR 61466 (October 24, 2005); 71 FR 15756 (March 29, 2006).
- ACE Entry Summary, Accounts and Revenue (ESAR I) Capabilities: 72 FR 59105 (October 18, 2007).
- ACE Entry Summary, Accounts and Revenue (ESAR II) Capabilities: 73 FR 50337 (August 26, 2008); 74 FR 9826 (March 6, 2009).
- ACE Entry Summary, Accounts and Revenue (ESAR III) Capabilities: 74 FR 69129 (December 30, 2009).
- ACE Entry Summary, Accounts and Revenue (ESAR IV) Capabilities: 76 FR 37136 (June 24, 2011).
- Post-Entry Amendment (PEA) Processing Test: 76 FR 37136 (June 24, 2011).
- ACE Announcement of a New Start Date for the National Customs Automation Program Test of Automated Manifest Capabilities for Ocean and Rail Carriers: 76 FR 42721 (July 19, 2011).
- ACE Simplified Entry: 76 FR 69755 (November 9, 2011).
- National Customs Automation Program (NCAP) Tests Concerning Automated Commercial Environment (ACE) Document Image System (DIS): 77 FR 20835 (April 6, 2012).
- National Customs Automation Program (NCAP) Tests Concerning Automated Commercial Environment (ACE) Simplified Entry: Modification of Participant Selection Criteria and Application Process: 77 FR 48527 (August 14, 2012).
- Modification of NCAP Test Regarding Reconciliation for Filing Certain Post-Importation Preferential Tariff Treatment Claims under Certain FTAs: 78 FR 27984 (May 13, 2013).
- Modification of Two National Customs Automation Program (NCAP) Tests Concerning Automated Commercial Environment (ACE) Document Image System (DIS) and Simplified Entry (SE): 78 FR 44142 (July 23, 2013).
- Modification of Two National Customs Automation Program (NCAP) Tests Concerning Automated Commercial Environment (ACE) Document Image System (DIS) and Simplified Entry (SE); Correction: 78 FR 53466 (August 29, 2013).
- Modification of NCAP Test Concerning Automated Commercial Environment (ACE) Cargo Release (formerly known as Simplified Entry): 78 FR 66039 (November 4, 2013).
- Post-Summary Corrections to Entry Summaries Filed in ACE Pursuant to the ESAR IV Test: Modifications and Clarifications: 78 FR 69434 (November 19, 2013).
- National Customs Automation Program (NCAP) Test Concerning the Submission of Certain Data Required by the Environmental Protection Agency and the Food Safety and Inspection Service Using the Partner Government Agency Message Set Through the Automated Commercial Environment (ACE): 78 FR 75931 (December 13, 2013).

• Modification of National Customs Automation Program (NCAP) Test Concerning Automated Commercial Environment (ACE) Cargo Release for Ocean and Rail Carriers: 79 FR 6210 (February 3, 2014).

• Modification of National Customs Automation Program (NCAP) Test Concerning Automated Commercial Environment (ACE) Cargo Release to Allow Importers and Brokers to Certify From ACE Entry Summary: 79 FR 24744 (May 1, 2014).

• Modification of National Customs Automation Program (NCAP) Test Concerning Automated Commercial Environment (ACE) Cargo Release for Truck Carriers: 79 FR 25142 (May 2, 2014).

• Modification of National Customs Automation Program (NCAP) Test Concerning Automated Commercial Environment (ACE) Document Image System: 79 FR 36083 (June 25, 2014).

• Announcement of eBond Test: 79 FR 70881 (November 28, 2014).

• eBond Test Modifications and Clarifications: Continuous Bond Executed Prior to or Outside the eBond Test May Be Converted to an eBond by the Surety and Principal, Termination of an eBond by Filing Identification Number, and Email Address Correction: 80 FR 899 (January 7, 2015).

• Modification of National Customs Automation Program (NCAP) Test Concerning Automated Commercial Environment (ACE) Document Image System Relating to Animal and Plant Health Inspection Service (APHIS) Document Submissions: 80 FR 5126 (January 30, 2015).

• Modification of National Customs Automation Program (NCAP) Test Concerning the use of Partner Government Agency Message Set through the Automated Commercial Environment (ACE) for the Submission of Certain Data Required by the Environmental Protection Agency (EPA): 80 FR 6098 (February 4, 2015).

• Announcement of Modification of ACE Cargo Release Test to Permit the Combined Filing of Cargo Release and Importer Security Filing (ISF) Data: 80 FR 7487 (February 10, 2015).

• Modification of NCAP Test Concerning ACE Cargo Release for Type 03 Entries and Advanced Capabilities for Truck Carriers: 80 FR 16414 (March 27, 2015).

• Automated Commercial Environment (ACE) Export Manifest for Air Cargo Test: 80 FR 39790 (July 10, 2015).

• National Customs Automation Program (NCAP) Concerning Remote Location Filing Entry Procedures in the Automated Commercial Environment (ACE) and the Use of the Document Image System for the Submission of Invoices and the Use of eBonds for the Transmission of Single Transaction Bonds: 80 FR 40079 (July 13, 2015).

Dated: August 24, 2015.

Brenda Smith,

Assistant Commissioner, Office of International Trade.

[FR Doc. 2015–21266 Filed 8–26–15; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–HQ–ES–2015–N169; 4500030113]

Information Collection Request Sent to the Office of Management and Budget (OMB) for Approval; Policy for Evaluation of Conservation Efforts When Making Listing Decisions (PECE)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice; request for comments.

SUMMARY: We (U.S. Fish and Wildlife Service) have sent an Information Collection Request (ICR) to OMB for review and approval. We summarize the ICR below and describe the nature of the collection and the estimated burden and cost. This information collection is scheduled to expire on August 31, 2015. We 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. However, under OMB regulations, we may continue to conduct or sponsor this information collection while it is pending at OMB.

DATES: You must submit comments on or before September 28, 2015.

ADDRESSES: Send your comments and suggestions on this information collection to the Desk Officer for the Department of the Interior at OMB–OIRA at (202) 395–5806 (fax) or *OIRA_Submission@omb.eop.gov* (email). Please provide a copy of your comments to the Service Information Collection Clearance Officer, U.S. Fish and Wildlife Service, MS BPHC, 5275 Leesburg Pike, Falls Church, VA 22041–3803 (mail), or *hope_grey@fws.gov* (email). Please include ''1018–0119'' in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: To request additional information about this ICR, contact Hope Grey at *hope_grey@fws.gov* (email) or 703–358–2482 (telephone). You may review the ICR online at *http://www.reginfo.gov.* Follow the instructions to review Department of the Interior collections under review by OMB.

SUPPLEMENTARY INFORMATION:

Information Collection Request

OMB Control Number: 1018–0119.

Title: Policy for Evaluation of Conservation Efforts When Making Listing Decisions (PECE).

Service Form Number: None.

Type of Request: Extension of a currently approved collection.

Description of Respondents: Primarily State, local, or tribal governments. However, individuals, businesses, and not-for-profit organizations could develop agreements/plans or may agree to implement certain conservation efforts identified in a State agreement/plan.

Respondent's Obligation: Required to obtain or retain a benefit.

Frequency of Collection: On occasion.

Estimated Annual Nonhour Burden Cost: None.

Activity	Number of respondents	Number of responses	Completion time per response	Total annual burden hours
Agreement	4	4	2,000	8,000
Monitoring	7	7	600	4,200
Reporting	7	7	120	840
Totals	18	18		13,040

Abstract: Section 4 of the Endangered Species Act (ESA) (16 U.S.C. 1531 *et seq.*) specifies the process by which we can list species as threatened or endangered. When we consider whether or not to list a species, the ESA requires us to take into account the efforts being made by any State or any political subdivision of a State to protect such

species. We also take into account the efforts being made by other entities. States or other entities often formalize conservation efforts in conservation agreements, conservation plans, management plans, or similar documents. The conservation efforts recommended or called for in such documents could prevent some species from becoming so imperiled that they meet the definition of a threatened or endangered species under the ESA.

The Policy for Evaluation of Conservation Efforts When Making Listing Decisions (PECE) (68 FR 15100, March 28, 2003) encourages the development of conservation agreements/plans and provides certainty about the standard that an individual conservation effort must meet in order for us to consider whether it contributes to forming a basis for making a decision about the listing of a species. PECE applies to ''formalized conservation efforts'' that have not been implemented or have been implemented but have not yet demonstrated if they are effective at the time of a listing decision.

Under PECE, formalized conservation efforts are defined as conservation efforts (specific actions, activities, or programs designed to eliminate or reduce threats or otherwise improve the status of a species) identified in a conservation agreement, conservation plan, management plan, or similar document. To assist us in evaluating a formalized conservation effort under PECE, we collect information such as conservation plans, monitoring results, and progress reports. The development of such agreements/plans is voluntary. There is no requirement that the individual conservation efforts included in such documents be designed to meet the standard in PECE. The PECE policy is posted on our Candidate Conservation Web site at *http://www.fws.gov/endangered/esa-library/pdf/PECE-final.pdf.*

Comments Received and Our Responses

Comments: On June 19, 2015, we published in the **Federal Register** (80 FR 35391) a notice of our intent to request that OMB renew authority for this information collection. In that notice, we solicited public comments for 60 days, ending August 18, 2015. We did not receive any comments.

Request for Public Comments

We again invite comments concerning this information collection on:

- Whether or not the collection of information is necessary, including whether or not the information will have practical utility;
- The accuracy of our estimate of the burden for this collection of information;
- Ways to enhance the quality, utility, and clarity of the information to be collected; and
- Ways to minimize the burden of the collection of information on respondents.

Comments that you submit in response to this notice are a matter of public record. 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 OMB in your comment to withhold your personal identifying information from public review, we cannot guarantee that it will be done.

Dated: August 24, 2015.

Tina A. Campbell,

Chief, Division of Policy, Performance, and Management Programs, U.S. Fish and Wildlife Service.

[FR Doc. 2015–21253 Filed 8–26–15; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R6–R–2015–N128; FXRS1265066CCP0–156–FF06R06000]

Rocky Mountain Arsenal National Wildlife Refuge, Adams County, CO; Environmental Impact Statement

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; final environmental impact statement.

SUMMARY: We, the U.S. Fish and Wildlife Service, announce the availability of a final environmental impact statement (EIS) for the comprehensive conservation plan (CCP) for the Rocky Mountain Arsenal National Wildlife Refuge (refuge) in Adams County, Colorado. In the final environmental impact Statement we describe alternatives, including our preferred alternative, to manage the refuge for the 15 years following approval of the final CCP.

ADDRESSES: You may request copies or more information by one of the following methods. You may request hard copies or a CD–ROM of the documents.

Email: rockymountainarsenal@fws.gov. Include ''Rocky Mountain Arsenal National Wildlife Refuge final EIS'' in the subject line of the message.

U.S. Mail: Bernardo Garza, Planning Team Leader, Branch of Refuge Planning, P.O. Box 25486, Denver Federal Center, Denver, CO 80225–0486.

Fax: Attn: Bernardo Garza, Planning Team Leader, 303–236–4792.

To view comments on the final CCP–EIS from the Environmental Protection Agency (EPA), or for information on EPA's role in the EIS process, see EPA's Role in the EIS Process under **SUPPLEMENTARY INFORMATION**.

FOR FURTHER INFORMATION CONTACT: Bernardo Garza, Planning Team Leader, 303–236–4377 (phone) or *bernardo_garza@fws.gov* (email).

SUPPLEMENTARY INFORMATION:

Introduction

With this notice, we announce the availability of the final EIS for the refuge. We started this process through a notice in the **Federal Register** (78 FR 48183; August 7, 2013). Following a lengthy scoping and alternatives development period, we published a second notice in the **Federal Register** (80 FR 26084; May 6, 2015) announcing the availability of the draft CCP and draft EIS and our intention to hold public meetings, and requested comments. In addition, EPA published a notice announcing the draft CCP and EIS (80 FR 27950; May 15, 2015), as required under section 309 of the Clean Air Act (42 U.S.C. 7401 *et seq.*). We now announce the final EIS. Under the Clean Air Act, EPA also will announce the final EIS via the **Federal Register**. This notice complies with our CCP policy to advise other Federal and State agencies, Tribes, and the public of the availability of the final EIS for this refuge.

EPA's Role in the EIS Process

The EPA is charged under section 309 of the Clean Air Act to review all Federal agencies' EISs and to comment on the adequacy and the acceptability of the environmental impacts of proposed actions in the EISs.

EPA also serves as the repository (EIS database) for EISs prepared by Federal agencies and provides notice of their availability in the **Federal Register**. The EIS database provides information about EISs prepared by Federal agencies, as well as EPA's comments concerning the EISs. All EISs are filed with EPA, which publishes a notice of availability on Fridays in the **Federal Register**.

The notice of availability is the start of the 45-day public comment period for draft EISs, and the start of the 30-day ''wait period'' for final EISs, during which agencies are generally required to wait 30 days before making a decision on a proposed action. For more

information, see *http://www.epa.gov/compliance/nepa/eisdata.html.* You may search for EPA comments on EISs, along with EISs themselves, at *https://cdxnodengn.epa.gov/cdx-enepa-public/action/eis/search.*

About the Refuge

In 1992 Congress passed the act that established the refuge to (1) conserve and enhance populations of fish, wildlife, and plants within the refuge, including populations of waterfowl, raptors, passerines, and marsh and water birds; (2) conserve species listed as threatened or endangered under the Endangered Species Act and species that are candidates for such listing; (3) provide maximum fish and wildlife–oriented public uses at levels compatible with the conservation and enhancement of wildlife and wildlife habitat; (4) provide opportunities for compatible scientific research; (5) provide opportunities for compatible environmental and land use education; (6) conserve and enhance the land and water of the refuge in a manner that will conserve and enhance the natural diversity of fish, wildlife, plants, and their habitats; (7) protect and enhance the quality of aquatic habitat within the refuge; and (8) fulfill international treaty obligations of the United States with respect to fish and wildlife and their habitats. The refuge is surrounded by the cities of Commerce City and Denver, along the Colorado Front Range. It encompasses nearly 16,000 acres and is home to more than 468 plant species and 350 wildlife species, including bison, deer, a wide variety of resident and migratory birds and raptors, amphibians, reptiles, fishes, and insects. The refuge's habitats include short and mixed grass prairie, interspersed with native shrubs, riparian corridors, lacustrine habitats on the refuge reservoirs, and woodlands planted by settlers around historic homesteads.

Background

The CCP Process

The National Wildlife Refuge System Administration Act of 1966, as amended (16 U.S.C. 668dd–668ee) (Administration Act) by the National Wildlife Refuge System Improvement Act of 1997, requires us to develop a CCP for each national wildlife refuge. The purpose for developing a CCP is to provide refuge managers with a 15-year plan for achieving refuge purposes and contributing toward the mission of the National Wildlife Refuge System (NWRS), consistent with sound principles of fish and wildlife management, conservation, legal mandates, and our policies. In addition to outlining broad management direction on conserving wildlife and their habitats, CCPs identify wildlife-dependent recreational opportunities available to the public, including, where appropriate, opportunities for hunting, fishing, wildlife observation and photography, and environmental education and interpretation. We will review and update the CCP at least every 15 years as necessary in accordance with the Administration Act.

Public Outreach

We started the public outreach process in June 2013. At that time and throughout the process, we requested public comments and considered them in numerous ways. Public outreach has included holding eight public meetings, mailing planning updates, maintaining a project Web site, and publishing press releases. We have considered and evaluated all the comments we have received throughout this process.

CCP Alternatives We Considered

During the public scoping process with which we started work on the draft CCP and draft EIS, we, our Federal and State partners, and the public identified several issues. Our final EIS addresses both the scoping comments and the comments we received on the draft CCP and draft EIS. A full description of each alternative is in the final EIS. Alternative C, Urban Refuge, was selected as the preferred alternative. To address these issues, we developed and evaluated the following alternatives, summarized below.

Alternative A: No Action

Alternative A is the no-action alternative, which represents the current management of the refuge. This alternative provides the baseline against which to compare the other alternatives. Under this alternative, management activity conducted by the Service would remain the same. The Service would not develop any new management, restoration, or education programs at the refuge. Current habitat and wildlife practices would not be expanded or changed. Funding and staff levels would remain the same, with little change in overall trends. Programs would follow the same direction, emphasis, and intensity as they do now. We would continue implementing the habitat restoration and management objectives set in the refuge's habitat management plan and other approved plans to provide for a wide variety of resident and migratory species.

Alternative B: Traditional Refuge

This alternative focuses on providing traditional refuge visitor uses and conveying the importance of conservation, wildlife protection, and the purposes of the Refuge System. Access to the refuge would remain more limited than in alternatives C and D. Wildlife-dependent recreation and community outreach would be minimally expanded. We would continue to manage the refuge's habitat and wildlife as in Alternative A, and would reintroduce to the refuge black-footed ferrets, and self-sustaining populations of greater prairie-chicken and sharp-tailed grouse. We would maintain the same levels of access and transportation as under Alternative A, but would enhance the main refuge entrance, improve visitor services facilities, and seek to improve trail accessibility.

Alternative C: Urban Refuge (Preferred Alternative)

The emphasis of this alternative is to increase the visibility of the refuge within the Denver metropolitan area and to welcome many more nontraditional visitors to the refuge. Through an expanded visitor services program, an abundance of instructional programming, and widespread outreach, we would endeavor to connect more people with nature and wildlife. In this alternative, the refuge would be made more accessible to outlying communities with the opening of additional access points and the development of enhanced transportation system. We would work with nontraditional users' trusted avenues of communication to increase outreach success. We would expand our conservation education in surrounding communities and schools, develop youth-specific outreach, and employ social marketing to broaden our agency's reach. We would manage the refuge's habitat and wildlife as in Alternative B, but the reintroduction of greater prairie-chicken and sharp-tailed grouse would be attempted regardless of whether these species' populations are likely to become self-sustaining.

Alternative D: Gateway Refuge

The emphasis of this alternative is to work with partners to increase the visibility of the refuge, the Refuge System, and other public lands in the area. There will be less visitor services programming at the refuge and efforts to engage with the public will be extended to off-site locations. We would work with Denver International Airport to improve physical connections between

the refuge and the airport. The trail system within the refuge would be more extensive than under Alternative C. Working with our partners, we would manage access to the perimeter trail and promote trail linkages to the Rocky Mountain Greenway Trail and other regional trails. We would manage the refuge's habitat and wildlife as in Alternative B and we would work with neighboring landowners and state agencies to extend the range of native species.

Comments

We solicited comments on the draft CCP and draft EIS from May 6, 2015, through July 6, 2015. During the comment period, we thoroughly evaluated and considered all the comments we received verbally or via letters, email, and electronic forms from the public. Our responses to comments are included in the final EIS.

Changes to the Final EIS

We made the following changes in the final EIS from the draft CCP and draft EIS:

• Several comments pointed out the need to increase the number of law enforcement officers in the refuge to better cope with the increased visitation and new access to the refuge. Thus the Final EIS reflects our desire to seek more than one full-time law enforcement officer for the refuge under Alternatives C and D.

• As necessary, we updated maps, corrected errors, and provided additional clarification throughout the final EIS.

Public Availability of Documents

In addition to any one method in **ADDRESSES**, you can view or obtain documents at the following locations:

• Our Web site: *http://www.fws.gov/mountain-prairie/planning/ccp/co/rkm/rkm.html.*

• Public libraries:

Library	Address	Phone number
Aurora Central Public Library	14949 E Alameda Parkway, Aurora, CO 80012	(303) 739–6600.
Commerce City Public Library	7185 Monaco Street, Commerce City, CO 80022	(303) 287–0063.
Denver Central Library	10 W Fourteenth Avenue, Denver, CO 80204	(720) 865–1111.
Montbello Public Library	12955 Albrook Drive, Denver, CO 80239	(720) 865–0200.
Rangeview Library District	327 E Bridge Street, Brighton, CO 80601	(303) 405–3230.

Next Steps

We will document the final decision in a record of decision, which will be published in the **Federal Register** after a 30-day ''wait period'' that begins when EPA announces this final EIS. For more information, see EPA's Role in the EIS Process.

Dated: August 3, 2015.

Matt Hogan,

Acting Regional Director, Mountain-Prairie Region, U.S. Fish and Wildlife Service.

[FR Doc. 2015–21234 Filed 8–26–15; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLNV952000 L14400000.BJ0000.LXSSF2210000.241A; 13–08807; MO# 4500082763; TAS: 15X1109]

Filing of Plats of Survey; NV

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The purpose of this notice is to inform the public and interested State and local government officials of the filing of Plats of Survey in Nevada.

DATES: Unless otherwise stated filing is effective at 10:00 a.m. on the dates indicated below.

FOR FURTHER INFORMATION CONTACT: Michael O. Harmening, Chief, Branch of Geographic Sciences, Bureau of Land Management, Nevada State Office, 1340 Financial Blvd., Reno, NV 89502–7147, phone: 775–861–6490. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION:

1. The Plat of Survey of the following described lands was officially filed at the BLM Nevada State Office, Reno, Nevada on April 17, 2015.

The plat, in 2 sheets, representing the dependent resurvey of a portion of the north boundary and a portion of the subdivisional lines, the subdivision of section 2 and metes-and-bounds surveys in section 2, Township 4 South, Range 60 East, of the Mount Diablo Meridian, Nevada, under Group No. 914, was accepted April 16, 2015. This survey was executed to meet certain administrative needs of the Bureau of Land Management.

2. The Plat of Survey of the following described lands was officially filed at the Bureau of Land Management (BLM) Nevada State Office, Reno, Nevada on June 4, 2015:

The plat, in 1 sheet, representing the dependent resurvey of a portion of the south boundary and a portion of the subdivisional lines, the subdivision of sections 35 and 36, and a metes-and-bounds survey of the centerline of Nevada State Route 318 through a portion of section 35, Township 3 South, Range 60 East, Mount Diablo Meridian, Nevada, under Group No. 929, was accepted June 2, 2015. This survey was executed to meet certain administrative needs of the Bureau of Land Management.

3. The Plat of Survey of the following described lands was officially filed at the Bureau of Land Management (BLM) Nevada State Office, Reno, Nevada on June 4, 2015:

The plat, in 1 sheet, representing the dependent resurvey of a portion of the east boundary, a portion of the north boundary and a portion of the subdivisional lines, and the subdivision of section 1, Township 4 South, Range 60 East, Mount Diablo Meridian, Nevada, under Group No. 929, was accepted June 2, 2015. This survey was executed to meet certain administrative needs of the Bureau of Land Management.

4. The Plat of Survey of the following described lands was officially filed at the Bureau of Land Management (BLM) Nevada State Office, Reno, Nevada on June 25, 2015:

The plat, in 3 sheets, representing the dependent resurvey of a portion of the south boundary, a portion of the subdivisional lines, and portions of Mineral Survey Nos. 4892 and 4893, and a metes-and-bounds survey in sections 35 and 36, Township 13 North, Range 26 East, Mount Diablo Meridian, Nevada, under Group No. 941, was accepted June 12, 2015. This survey was executed to facilitate the conveyance of certain public land to the municipality of Yerington, Nevada, as authorized by Public Law 113–291.

5. The Plat of Survey of the following described lands was officially filed at

the Bureau of Land Management (BLM) Nevada State Office, Reno, Nevada on June 30, 2015:

The plat, in 2 sheets, representing the dependent resurvey of a portion of the north boundary, a portion of the subdivisional lines, and the subdivision of sections 3 and 4, Township 34 North, Range 55 East, Mount Diablo Meridian, Nevada, under Group No. 942, was accepted June 29, 2015. This survey was executed to define and mark boundaries for management of the Te-Moak trust lands transferred by legislation, as authorized by Public Law 113–291.

6. The Plat of Survey of the following described lands was officially filed at the Bureau of Land Management (BLM) Nevada State Office, Reno, Nevada on July 24, 2015:

The plat, in 2 sheets, representing the dependent resurvey of a portion of the east boundary, a portion of the subdivisional lines, and the subdivision of section 25, and certain metes-and-bounds surveys in section 25, Township 34 North, Range 54 East, Mount Diablo Meridian, Nevada, under Group No. 943, was accepted July 22, 2015. This survey was executed to facilitate the conveyance of certain public lands, as authorized by Public Law 113–291.

7. The Plat of Survey of the following described lands was officially filed at the Bureau of Land Management (BLM) Nevada State Office, Reno, Nevada on July 24, 2015:

The plat, in 1 sheet, representing the dependent resurvey of a portion of the east boundary, and a metes-and-bounds survey in section 25, Township 34 North, Range 54 1/2 East, Mount Diablo Meridian, Nevada, under Group No. 943, was accepted July 22, 2015. This survey was executed to facilitate the conveyance of certain public lands, as authorize by Public Law 113–291.

8. The Plat of Survey of the following described lands was officially filed at the Bureau of Land Management (BLM) Nevada State Office, Reno, Nevada on July 30, 2015:

The plat, in 1 sheet, representing the dependent resurvey of Mineral Survey Nos. 3962 and 3971, in unsurveyed Township 5 South, Range 46 East, Mount Diablo Meridian, Nevada, under Group No. 946, was accepted July 29, 2015. This survey was executed to identify the boundaries of certain mineral surveys to the extent necessary to identify federal interest for eventual conveyance to the United States.

9. The Supplemental Plat of the following described lands was officially filed at the BLM Nevada State Office, Reno, Nevada on June 4, 2015: The supplemental plat, in 1 sheet, showing amended lottings in section 17, Township 19 South, Range 60 East, of the Mount Diablo Meridian, Nevada, under Group No. 947, was accepted June 3, 2015. This supplemental plat was prepared to meet certain administrative needs of the Bureau of Land Management.

10. The Supplemental Plat of the following described lands was officially filed at the BLM Nevada State Office, Reno, Nevada on June 25, 2015:

The supplemental plat, in 1 sheet, showing amended lottings in section 2, Township 12 North, Range 26 East, of the Mount Diablo Meridian, Nevada, under Group No. 951, was accepted June 22, 2015. This supplemental plat was executed to facilitate the conveyance of certain public land to the municipality of Yerington, Nevada, as authorized by Public Law 113–291.

11. The Supplemental Plat of the following described lands was officially filed at the BLM Nevada State Office, Reno, Nevada on June 25, 2015:

The supplemental plat, in 1 sheet, showing amended lottings in section 3, Township 12 North, Range 26 East, of the Mount Diablo Meridian, Nevada, under Group No. 951, was accepted June 22, 2015. This supplemental plat was executed to facilitate the conveyance of certain public land to the municipality of Yerington, Nevada, as authorized by Public Law 113–291.

12. The Supplemental Plat of the following described lands was officially filed at the BLM Nevada State Office, Reno, Nevada on June 25, 2015:

The supplemental plat, in 1 sheet, showing amended lottings in section 4, Township 12 North, Range 26 East, of the Mount Diablo Meridian, Nevada, under Group No. 951, was accepted June 22, 2015. This supplemental plat was executed to facilitate the conveyance of certain public land to the municipality of Yerington, Nevada, as authorized by Public Law 113–291.

13. The Supplemental Plat of the following described lands was officially filed at the BLM Nevada State Office, Reno, Nevada on June 25, 2015:

The supplemental plat, in 1 sheet, showing amended lottings in section 9, Township 12 North, Range 26 East, of the Mount Diablo Meridian, Nevada, under Group No. 951, was accepted June 22, 2015. This supplemental plat was executed to facilitate the conveyance of certain public land to the municipality of Yerington, Nevada, as authorized by Public Law 113–291.

14. The Supplemental Plat of the following described lands was officially filed at the BLM Nevada State Office, Reno, Nevada on June 25, 2015:

The supplemental plat, in 1 sheet, showing amended lottings in section 10, Township 12 North, Range 26 East, of the Mount Diablo Meridian, Nevada, under Group No. 951, was accepted June 22, 2015. This supplemental plat was executed to facilitate the conveyance of certain public land to the municipality of Yerington, Nevada, as authorized by Public Law 113–291.

15. The Supplemental Plat of the following described lands was officially filed at the BLM Nevada State Office, Reno, Nevada on June 25, 2015:

The supplemental plat, in 1 sheet, showing amended lottings in section 11, Township 12 North, Range 26 East, of the Mount Diablo Meridian, Nevada, under Group No. 951, was accepted June 22, 2015. This supplemental plat was executed to facilitate the conveyance of certain public land to the municipality of Yerington, Nevada, as authorized by Public Law 113–291.

16. The Supplemental Plat of the following described lands was officially filed at the BLM Nevada State Office, Reno, Nevada on August 11, 2015:

The supplemental plat, in 1 sheet, showing amended lottings in section 33, Township 13 North, Range 26 East, of the Mount Diablo Meridian, Nevada, under Group No. 953, was accepted August 11, 2015. This supplemental plat was executed to facilitate the conveyance of certain public land to the municipality of Yerington, Nevada, as authorized by Public Law 113–291.

The surveys and supplemental plats listed above are now the basic record for describing the lands for all authorized purposes. These records have been placed in the open files in the BLM Nevada State Office and are available to the public as a matter of information. Copies of the surveys and related field notes may be furnished to the public upon payment of the appropriate fees.

Dated: August 21, 2015.

Michael O. Harmening,

Chief Cadastral Surveyor, Nevada.

[FR Doc. 2015–21245 Filed 8–26–15; 8:45 am]

BILLING CODE 4310–HC–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLNMP00000 L13110000.PP0000 15XL1109PF]

Notice of Public Meeting, Pecos District Resource Advisory Council Meeting, New Mexico

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of public meeting.

SUMMARY: In accordance with the Federal Land Policy and Management

Act and the Federal Advisory Committee Act, Bureau of Land Management's (BLM) Pecos District Resource Advisory Council (RAC) will meet as indicated below.

DATES: The RAC will meet on October 15, 2015, at the Carlsbad Field Office, 620 East Greene Street, Carlsbad, New Mexico, from 9 a.m.–4 p.m. The public may send written comments to the RAC at the BLM Pecos District, 2909 West 2nd Street, Roswell, New Mexico, 88201.

FOR FURTHER INFORMATION CONTACT: Howard Parman, Pecos District Office, Bureau of Land Management, 2909 West 2nd Street, Roswell, New Mexico 88201, 575–627–0212. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8229 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The 10-member Pecos District RAC advises the Secretary of the Interior, through the BLM, on a variety of planning and management issues associated with public land management in the BLM's Pecos District. Planned agenda items include: Election of a new chairman; report on the status of the Carlsbad plan revision; an overview of penalties for non-compliance for oil and gas development activities; presentations by both BLM staff and cave interests regarding the BLM's management of caves in regards to containing the spread of white nose syndrome; and a field trip to the Delaware and Black Rivers to discuss issues associated with these bodies of water.

All RAC meetings are open to the public. There will be a half-hour public comment period at 9:30 a.m. for any interested members of the public who wish to address the RAC. Depending on the number of persons wishing to speak and time available, the time for individual comments may be limited.

Debby Lucero,

Acting Deputy State Director, Lands and Resources.

[FR Doc. 2015–21284 Filed 8–26–15; 8:45 am]

BILLING CODE 4310–FB–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLOR957000–L14400000–BJ0000–15XL1109AF: HAG 15–0217]

Filing of Plats of Survey: Oregon/Washington

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The plats of survey of the following described lands are scheduled to be officially filed in the Bureau of Land Management, Oregon State Office, Portland, Oregon, 30 days from the date of this publication.

Willamette Meridian

Oregon

T. 32 S., R. 8 W., accepted August 5, 2015
T. 12 S., R. 41 E., accepted August 5, 2015

ADDRESSES: A copy of the plats may be obtained from the Public Room at the Bureau of Land Management, Oregon State Office, 1220 SW. 3rd Avenue, Portland, Oregon 97204, upon required payment.

FOR FURTHER INFORMATION CONTACT: Kyle Hensley, (503) 808–6132, Branch of Geographic Sciences, Bureau of Land Management, 1220 SW. 3rd Avenue, Portland, Oregon 97204. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: A person or party who wishes to protest against this survey must file a written notice with the Oregon State Director, Bureau of Land Management, stating that they wish to protest. A statement of reasons for a protest may be filed with the notice of protest and must be filed with the Oregon State Director within thirty days after the protest is filed. If a protest against the survey is received prior to the date of official filing, the filing will be stayed pending consideration of the protest. A plat will not be officially filed until the day after all protests have been dismissed or otherwise resolved. 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.

F. David Radford,

Acting, Chief Cadastral Surveyor of Oregon/Washington.

[FR Doc. 2015–21276 Filed 8–26–15; 8:45 am]

BILLING CODE 4310–33–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLMTM00000.L111100000.XP0000 15XL1109AF MO#4500082502]

Notice of Public Meeting; Central Montana Resource Advisory Council

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of public meeting.

SUMMARY: In accordance with the Federal Land Policy and Management Act (FLPMA) and the Federal Advisory Committee Act of 1972 (FACA), the U.S. Department of the Interior, Bureau of Land Management (BLM) Central Montana Resource Advisory Council (RAC) will meet as indicated below.

DATES: The Central Montana Resource Advisory Council Meeting will be held October 6–7, 2015 in Chinook, Montana. The October 6 meeting will begin at 10:00 a.m. with a 30-minute public comment period and will adjourn at 5:00 p.m. The October 7 meeting will begin at 8:00 a.m. with a 30-minute public comment period beginning at 10:00 a.m. and will adjourn at 12:00 p.m.

ADDRESSES: The meetings will be in the Chinook Motor Inn Conference Room at 100 Indian Street, Chinook, Montana.

FOR FURTHER INFORMATION CONTACT: Mark Albers, HiLine District Manager, Great Falls Field Office, 1101 15th Street North, Great Falls, MT 59401, (406) 791–7789, *malbers@blm.gov.* Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–677–8339 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, 7 days a week to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: This 15-member council advises the Secretary of the Interior, through the BLM, on a variety of management issues associated with public land management in Montana. During these meetings the

council is scheduled to take a field trip to the Bullwhacker Coulee area October 6, 11:00 a.m. to 5:00 p.m. and participate in/discuss/act upon these topics/activities: A roundtable discussion among council members and the BLM; update on BLM efforts to restore access to the Bullwhacker area and District Managers' updates. All RAC meetings are open to the public.

Each formal RAC meeting will also have time allocated for hearing public comments. Depending on the number of persons wishing to comment and time available, the time for individual oral comments may be limited.

Authority: 43 CFR 1784.4–2.

Mark K. Albers,

HiLine District Manager.

[FR Doc. 2015–21280 Filed 8–26–15; 8:45 am]

BILLING CODE 4310–DN–P

DEPARTMENT OF THE INTERIOR

Bureau of Safety and Environmental Enforcement

[Docket ID BSEE–2015–0011; OMB Control Number 1014–0019; 15XE1700DX EEEE500000 EX1SF0000.DAQ000]

Information Collection Activities: Oil and Gas Production Requirements; Proposed Collection; Comment Request

ACTION: 60-day Notice.

SUMMARY: To comply with the Paperwork Reduction Act of 1995 (PRA), BSEE is inviting comments on a collection of information that we will submit to the Office of Management and Budget (OMB) for review and approval. The information collection request (ICR) concerns a renewal to the paperwork requirements in the regulations under Subpart K, *Oil and Gas Production Requirements.*

DATES: You must submit comments by October 26, 2015.

ADDRESSES: You may submit comments by either of the following methods listed below.

- Electronically go to *http://www.regulations.gov.* In the Search box, enter BSEE–2015–0011 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.* 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 1014–0019 in your comment and include your name and return address.

FOR FURTHER INFORMATION CONTACT: Cheryl Blundon, Regulations and Standards Branch at (703) 787–1607 to request additional information about this ICR.

SUPPLEMENTARY INFORMATION:

Title: 30 CFR part 250, subpart K, *Oil and Gas Production Requirements.*

Form(s): BSEE–0126 and BSEE–0128.

OMB Control Number: 1014–0019.

Abstract: The Outer Continental Shelf (OCS) Lands Act (OCSLA), at 43 U.S.C. 1334 authorizes the Secretary of the Interior to prescribe rules and regulations necessary for the administration of the leasing provisions of that Act related to the mineral resources on the OCS. Such rules and regulations will apply to all operations conducted under a lease, right-of-way, or a right-of-use and easement. Operations on the OCS must preserve, protect, and develop oil and natural gas resources in a manner that is consistent with the need to make such resources available to meet the Nation's energy needs as rapidly as possible; to balance orderly energy resource development with protection of human, marine, and coastal environments; to ensure the public a fair and equitable return on the resources of the OCS; and to preserve and maintain free enterprise competition.

Section 5(a) of the OCS Lands Act requires the Secretary to prescribe rules and regulations ''to provide for the prevention of waste, and conservation of the natural resources of the Outer Continental Shelf, and the protection of correlative rights therein'' and to include provisions ''for the prompt and efficient exploration and development of a lease area.''

Section 1334(g)(2) states ''. . . the lessee shall produce such oil or gas, or both, at rates . . . to assure the maximum rate of production which may be sustained without loss of ultimate recovery of oil or gas, or both, under sound engineering and economic principles, and which is safe for the duration of the activity covered by the approved plan.''

In addition to the general rulemaking authority of the OCSLA at 43 U.S.C. 1334, section 301(a) of the Federal Oil and Gas Royalty Management Act (FOGRMA), 30 U.S.C. 1751(a), grants authority to the Secretary to prescribe such rules and regulations as are reasonably necessary to carry out FOGRMA's provisions. While the majority of FOGRMA is directed to royalty collection and enforcement, some provisions apply to offshore operations. For example, section 108 of FOGRMA, 30 U.S.C. 1718, grants the Secretary broad authority to inspect lease sites for the purpose of determining whether there is compliance with the mineral leasing laws. Section 109(c)(2) and (d)(1), 30 U.S.C. 1719(c)(2) and (d)(1), impose substantial civil penalties for failure to permit lawful inspections and for knowing or willful preparation or submission of false, inaccurate, or misleading reports, records, or other information. Because the Secretary has delegated some of the authority under FOGRMA to BSEE, 30 U.S.C. 1751 is included as additional authority for these requirements.

The Independent Offices Appropriations Act (31 U.S.C. 9701), the Omnibus Appropriations Bill (Pub. L. 104–133, 110 Stat. 1321, April 26, 1996), and OMB Circular A–25, authorize Federal agencies to recover the full cost of services that confer special benefits. Under the Department of the Interior's implementing policy, the Bureau of Safety and Environmental Enforcement (BSEE) is required to charge the full cost for services that provide special benefits or privileges to an identifiable non-Federal recipient above and beyond those that accrue to the public at large. Several requests for approval required in Subpart K are subject to cost recovery, and BSEE regulations specify service fees for these requests.

Regulations implementing these responsibilities are among those delegated to BSEE. The regulations under 30 CFR 250, subpart K, pertain to governing oil and gas production, associated forms, and related Notices to Lessees (NTLs) and Operators. BSEE issued several NTLs to clarify and provide additional guidance on some aspects of the current subpart K regulations.

We use the information in our efforts to conserve natural resources, prevent waste, and protect correlative rights, including the Government's royalty interest. Specifically, BSEE uses the information to:

- Evaluate requests to burn liquid hydrocarbons and vent and flare gas to ensure that these requests are appropriate;
- determine if a maximum production or efficient rate is required; and,
- review applications for downhole commingling to ensure that action does not result in harm to ultimate recovery.

We use the information in Form BSEE–0126, Well Potential Test Report, for reservoir, reserves, and conservation

analyses, including the determination of maximum production rates (MPRs) when necessary for certain oil and gas completions. The information obtained from the well potential test is essential to determine if an MPR is necessary for a well and to establish the appropriate rate. The information in Form BSEE–0128, Semiannual Well Test Report, is used to evaluate the results of well tests to determine if reservoirs are being depleted in a manner that will lead to the greatest ultimate recovery of hydrocarbons. This information is collected to determine the capability of hydrocarbon wells and to evaluate and verify an operator's approved maximum production rate if assigned.

No questions of a sensitive nature are asked. We protect proprietary information according to the Freedom of Information Act (5 U.S.C. 552) and DOI's implementing regulations (43 CFR 2); 30 CFR 250.197, *Data and information to be made available to the public or for limited inspection*; and 30 CFR part 252, *OCS Oil and Gas Information Program.* Proprietary information concerning geological and geophysical data will be protected according to 43 U.S.C. 1352. Responses are mandatory or are required to obtain or retain a benefit.

Frequency: On occasion, weekly, monthly, semi-annually, annually, and as a result of situations encountered depending upon the requirements.

Description of Respondents: Potential respondents comprise Federal oil, gas, or sulphur lessees and/or operators.

Estimated Reporting and Recordkeeping Hour Burden: The currently approved annual reporting burden for this collection is 20,312 hours and $4,593,245 non-hour costs. In this submission, we are requesting a total of 46,136 burden hours and $1,361,176 non-hour cost burdens. The following chart details the individual components and respective hour burden estimates of this ICR. In calculating the burdens, we assumed that respondents perform certain requirements in the normal course of their activities. We consider these to be usual and customary and took that into account in estimating the burden.

30 CFR 250 Subpart K and related NTLs	Reporting & recordkeeping requirement*	Non-Hour cost burdens		
		Hour burden	Average No. of annual responses	Annual burden hours (rounded)
Well Tests/Surveys and Classifying Reservoirs				
1151(a)(1), (c); 1167	Conduct well production test; submit Form BSEE–0126 (Well Potential Test Report) and supporting information within 15 days after end of test period.	3.4	587 forms and information.	1,996
1151(a)(2), (c); 1167	Conduct well production test; submit Form BSEE–0128 (Semiannual Well Test Report) and supporting information within 45 days after end of calendar half-year.	3.2	8,605 forms and information.	27,536
1151(b)	Request extension of time to submit results of semi-annual well test.	0.6	8 requests	5
1152(b), (c);	Request approval to conduct well testing using alternative procedures.	0.9	7 requests	6
1152(d)	Provide advance notice of time and date of well tests.	0.6	36 notices	22
Subtotal			9,243 responses	29,565
Approvals Prior to Production				
1156; 1167	Request approval to produce within 500 feet of a unit or lease line; submit supporting information/documentation; notify adjacent operators and provide BSEE proof of notice date.	8.75	20 requests	175
		$3,892 × 20 requests = $77,840		
1156(b); 1158(b)	Notify adjacent operators submit letters of acceptance or objection to BSEE within 30 days after notice; include proof of notice date.	1.63	20 letters	33
1157; 1167	Request approval to produce gas-cap gas in an oil reservoir with an associated gas cap, or to continue producing an oil well showing characteristics of a gas well with an associated gas cap; submit producing an oil well showing characteristics of a gas well with an associated gas cap; submit supporting information.	16.2	22 requests	356
		$4,953 × 22 requests = $108,966		

30 CFR 250 Subpart K and related NTLs	Reporting & recordkeeping requirement*	Non-Hour cost burdens		
		Hour burden	Average No. of annual responses	Annual burden hours (rounded)
1158; 1167	Request approval to downhole commingle hydrocarbons; submit supporting information; notify operators and provide proof of notice date.	24	30 applications	720
		$5,779 × 30 applications = $173,370		
Subtotal			92 responses	1,284
		$360,176 non-hour costs		
Flaring, Venting, and Burning Hydrocarbons				
1160; 1161; 1163(e)	Request approval to flare or vent natural gas or exceed specified time limits/volumes; submit evaluation/documentation; report flare/vent information due to blow down of transportation pipelines within 72 hours after incident.	2.55	231 requests/reports	589
1160(b); 1164(b)(1), (2)	H_2S Contingency, Exploration, or Development and Production Plans and, Development Operations Coordination Documents—burdens covered under 1014–0018 and BOEM's 1010–0151. Monitor air quality and report—burdens covered under 1010–0057.			0
1162; 1163(e)	Request approval to burn produced liquid hydrocarbons; demonstrate no risk and/or submit documentation re transport. If approval needed, submit documentation with relevant information re hydrocarbons burned under the approval.	1.25	3 requests/reports	4
1163	Initial purchase or replacement of gas meters to measure the amount of gas flared or vented. This is a non-hour cost burden.	13 meters @$77,000 each—$1,001,000		
1163(a)(1)	Notify BSEE when facility begins to process more than an average of 2,000 bopd per month.	1.25	33 notices	41
1163(b);	Report to ONRR hydrocarbons produced, including measured gas flared/vented and liquid hydrocarbon burned—burden covered under 1012–0004.			0
1163(a), (c), (d)	Maintain records for 6 years detailing on a daily and monthly cumulative basis gas flaring/venting, liquid hydrocarbon burning; and flare/vent meter recordings; make available for inspection or provide copies upon request.	14.8	914 platforms (gas flare/vent).	13,527
		1	60 Liquid Hydrocarbon	60
1164(c)	Submit monthly reports of flared or vented gas containing H_2S.	3.6	15 operators × 12 mos. = 180.	648
Subtotal			1,434 responses	14,869
			$1,001,000 non-hour costs	
Other Requirements				
1165	Submit proposed plan and supporting information for enhanced recovery operations.	12	18 plans	216
1165(c)	Submit periodic reports of volumes of oil, gas, or other substances injected, produced, or produced for a second time—burden covered under ONRR's 1012–0004.			0
1166	Alaska Region only: submit annual reservoir management report and supporting information.	1	1 (req'd by State, BSEE gets copy).	1
		100	1 new development not State lands.	100
		20	1 revision	20

30 CFR 250 Subpart K and related NTLs	Reporting & recordkeeping requirement*	Non-Hour cost burdens		
		Hour burden	Average No. of annual responses	Annual burden hours (rounded)
1150–1167	General departure or alternative compliance requests not specifically covered elsewhere in Subpart K.	2.8	29 submissions	81
Subtotal			50 responses	418
Total Burden			10,819 responses	46,136
			$1,361,176 non-hour cost burdens.	

* In the future, BSEE may require electronic filing of some submissions.

Estimated Reporting and Recordkeeping Non-Hour Cost Burden: We have identified four non-hour cost burdens for this collection. Section 250.1156 requires a fee ($3,892) to produce within 500 feet of a lease line request. Section 250.1157 requires a fee ($4,953) for a gas cap production request. Section 250.1158 requires a fee ($5,779) for a downhole commingling request. Section 250.1163 requires purchase and installation of gas meters ($77,000) to measure the amount of gas flared or vented for facilities that produce more than 2,000 bopd. 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: Before submitting an ICR to OMB, PRA section 3506(c)(2)(A) 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.

Agencies must also estimate the non-hour paperwork cost burdens to respondents or recordkeepers resulting from the collection of information. Therefore, if you have other than hour burden costs to generate, maintain, and disclose this information, you should comment and provide your total capital and startup cost components or annual operation, maintenance, and purchase of service components. For further information on this burden, refer to 5 CFR 1320.3(b)(1) and (2), or contact the Bureau representative listed previously in this notice.

We will summarize written responses to this notice and address them in our submission for OMB approval. As a result of your comments, we will make any necessary adjustments to the burden in our submission to OMB.

Public Comment Procedures: 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 21, 2015.

Robert W. Middleton,

Deputy Chief, Office of Offshore Regulatory Programs.

[FR Doc. 2015–21278 Filed 8–26–15; 8:45 am]

BILLING CODE 4310–VH–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 131–041]

APEC List of Environmental Goods: Advice on the Probable Economic Effect of Providing Duty Reductions for Imports

AGENCY: United States International Trade Commission.

ACTION: Institution of investigation and scheduling of hearing.

SUMMARY: Following receipt on August 5, 2015, of a request from the U.S. Trade Representative (USTR) under section 131 of the Trade Act of 1974 (19 U.S.C. 2151), the U.S. International Trade Commission (Commission) instituted investigation no. 131–041, *APEC List of Environmental Goods: Advice on the Probable Economic Effect of Providing Duty Reductions for Imports.*

DATES:

September 11, 2015: Deadline for filing requests to appear at the public hearing.

September 15, 2015: Deadline for filing prehearing briefs and statements.

September 25, 2015: Public hearing.

October 2, 2015: Deadline for filing posthearing briefs and statements.

October 2, 2015: Deadline for filing all other written submissions.

November 4, 2015: Transmittal of Commission report to the USTR.

ADDRESSES: All Commission offices, including the Commission's hearing rooms, are located in the United States International Trade Commission Building, 500 E Street SW., Washington, DC. All written submissions should be addressed to the Secretary, United States International Trade Commission, 500 E Street SW., Washington, DC 20436. The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://www.usitc.gov/secretary/edis.htm.*

FOR FURTHER INFORMATION CONTACT: Project leader Renee Berry (202–205–3498 or *renee.berry@usitc.gov*) for information specific to this investigation. For information on the legal aspects of this investigation, contact William Gearhart of the Commission's Office of the General Counsel (202–205–3091 or *william.gearhart@usitc.gov*). The media should contact Margaret O'Laughlin, Office of External Relations (202–205–1819 or *margaret.olaughlin@usitc.gov*). Hearing-impaired individuals may obtain information on this matter by contacting the Commission's TDD terminal at 202–205–1810. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*).

Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000.

Background: As requested by the USTR, the Commission will provide a report containing its advice as to the probable economic effect of modifying tariffs for six products specified in the request. The report will consider the effect of such modifications on U.S. industries producing like or directly competitive articles, and on consumers. The products are included in a List of Environmental Goods endorsed by leaders of the Asia-Pacific Economic Cooperation forum in 2012. Leaders agreed to reduce applied duties on such products to 5 percent or less by the end of 2015. Broadly, the affected imports covered by the list are steam turbine parts and certain types of wood flooring.

The USTR stated that portions of the Commission's report will be classified as national security information and that the USTR considers the report to be an inter-agency memorandum that will contain pre-decisional advice and be subject to the deliberative process privilege.

Public Hearing: The Commission will hold a public hearing in connection with this investigation at the U.S. International Trade Commission Building, 500 E Street SW., Washington, DC, beginning at 9:30 a.m. on Friday, September 25, 2015. Requests to appear at the public hearing should be filed with the Secretary not later than 5:15 p.m., September 11, 2015, in accordance with the requirements in the ''Written Submissions'' section below. All prehearing briefs and statements should be filed with the Secretary not later than 5:15 p.m., September 15, 2015; and all posthearing briefs and statements responding to matters raised at the hearing should be filed with the Secretary not later than 5:15 p.m., October 2, 2015. All hearing-related briefs and statements should be filed in accordance with the requirements for filing written submissions set out below.

Written Submissions: In lieu of, or in addition to, participating in the hearing, interested parties are invited to file written submissions concerning this investigation. All written submissions should be addressed to the Secretary, and all such submissions should be received not later than 5:15 p.m., October 2, 2015. All written submissions must conform with the provisions of section 201.8 of the *Commission's Rules of Practice and Procedure* (19 CFR 201.8). Section 201.8 and the Commission's Handbook on Filing Procedures require that interested parties file documents electronically on or before the filing deadline and submit eight (8) true paper copies by 12:00 p.m. eastern time on the next business day. In the event that confidential treatment of a document is requested, interested parties must file, at the same time as the eight paper copies, at least four (4) additional true paper copies in which the confidential information must be deleted (see the following paragraph for further information regarding confidential business information). Persons with questions regarding electronic filing should contact the Secretary (202–205–2000).

Any submissions that contain confidential business information (CBI) must also conform with the requirements of section 201.6 of the *Commission's Rules of Practice and Procedure* (19 CFR 201.6). Section 201.6 of the rules requires that the cover of the document and the individual pages be clearly marked as to whether they are the ''confidential'' or ''non-confidential'' version, and that the confidential business information be clearly identified by means of brackets. All written submissions, except for confidential business information, will be made available for inspection by interested parties. The Commission may include some or all of the confidential business information submitted in the course of this investigation in the report it sends to the USTR. The Commission will not otherwise publish any confidential business information in a manner that would reveal the operations of the firm supplying the information.

Summaries of Written Submissions: The Commission intends to include summaries of the positions of interested persons in an appendix to its report. Persons wishing to have a summary of their position included in the appendix should include a summary with their written submission. The summary may not exceed 500 words, should be in MSWord format or a format that can be easily converted to MSWord, and should not include any confidential business information. The summary will be published as provided if it meets these requirements and is germane to the subject matter of the investigation. In the appendix the Commission will identify the name of the organization furnishing the summary, and will include a link to the Commission's Electronic Document Information System (EDIS) where the full written submission can be found.

By order of the Commission.

Issued: August 21, 2015.

Lisa R. Barton,

Secretary to the Commission.

[FR Doc. 2015–21157 Filed 8–26–15; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Settlement Agreements Between a Plan and a Party in Interest

ACTION: Notice.

SUMMARY: The Department of Labor (DOL) is submitting the Employee Benefits Security Administration (EBSA) sponsored information collection request (ICR) titled, ''Settlement Agreements Between a Plan and a Party in Interest,'' to the Office of Management and Budget (OMB) for review and approval for continued use, without change, in accordance with the Paperwork Reduction Act of 1995 (PRA), 44 U.S.C. 3501 *et seq.* Public comments on the ICR are invited.

DATES: The OMB will consider all written comments that agency receives on or before September 28, 2015.

ADDRESSES: A copy of this ICR with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained free of charge from the RegInfo.gov Web site at *http://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=201507–1210–002* (this link will only become active on the day following publication of this notice) or by contacting Michel Smyth by telephone at 202–693–4129, TTY 202–693–8064, (these are not toll-free numbers) or by email at *DOL_PRA_PUBLIC@dol.gov.*

Submit comments about this request by mail or courier to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for DOL–EBSA, Office of Management and Budget, Room 10235, 725 17th Street NW., Washington, DC 20503; by Fax: 202–395–5806 (this is not a toll-free number); or by email: *OIRA_submission@omb.eop.gov.* Commenters are encouraged, but not required, to send a courtesy copy of any comments by mail or courier to the U.S. Department of Labor-OASAM, Office of the Chief Information Officer, Attn: Departmental Information Compliance Management Program, Room N1301, 200 Constitution Avenue NW.,

Washington, DC 20210; or by email: *DOL_PRA_PUBLIC@dol.gov.*

FOR FURTHER INFORMATION CONTACT: Michel Smyth by telephone at 202–693–4129, TTY 202–693–8064, (these are not toll-free numbers) or by email at *DOL_PRA_PUBLIC@dol.gov.*

Authority: 44 U.S.C. 3507(a)(1)(D).

SUPPLEMENTARY INFORMATION: This ICR seeks to extend PRA authority for the Settlement Agreements Between a Plan and Party in Interest information collection. Prohibited Transaction Exemption (PTE) 1994–71 exempts from certain Employee Retirement Income Security Act of 1974 (ERISA) and Internal Revenue Code of 1986 (Code) section 4975(c)(2) restrictions a settlement agreement entered into between an employee benefit plan and a party in interest resulting from a DOL investigation the plan. PTE 2003–39 similarly exempts a settlement agreement entered into between a plan and a party in interest in avoidance of litigation from certain ERISA restrictions and certain taxes of the Code. ERISA section 408(a) authorizes this information collection. *See* 29 U.S.C. 1108(a).

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is approved by the OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid Control Number. *See* 5 CFR 1320.5(a) and 1320.6. The DOL obtains OMB approval for this information collection under Control Number 1210–0091.

OMB authorization for an ICR cannot be for more than three (3) years without renewal, and the current approval for this collection is scheduled to expire on August 31, 2015. The DOL seeks to extend PRA authorization for this information collection for three (3) more years, without any change to existing requirements. The DOL notes that existing information collection requirements submitted to the OMB receive a month-to-month extension while they undergo review. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on June 17, 2015 (80 FR 34696).

Interested parties are encouraged to send comments to the OMB, Office of Information and Regulatory Affairs at the address shown in the **ADDRESSES** section within thirty (30) days of publication of this notice in the **Federal Register**. In order to help ensure appropriate consideration, comments should mention OMB Control Number 1210–0091. The OMB is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Agency: DOL–EBSA.

Title of Collection: Settlement Agreements Between a Plan and a Party in Interest.

OMB Control Number: 1210–0091.

Affected Public: Private Sector—businesses or other for-profits.

Total Estimated Number of Respondents: 6.

Total Estimated Number of Responses: 1,620.

Total Estimated Annual Time Burden: 42 hours.

Total Estimated Annual Other Costs Burden: $542.

Dated: August 21, 2015.

Michel Smyth,

Departmental Clearance Officer.

[FR Doc. 2015–21200 Filed 8–26–15; 8:45 am]

BILLING CODE 4510–29–P

MERIT SYSTEMS PROTECTION BOARD

Agency Information Collection Activities; Proposed Collection

AGENCY: Merit Systems Protection Board.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA), the U.S. Merit Systems Protection Board (MSPB) is submitting a request for a three-year extension of an Information Collection Request (ICR) to the Office of Management and Budget (OMB) for review and approval. This ICR describes the nature of the information collection and its estimated burden and cost.

DATES: Submit written comments on or before September 28, 2015.

ADDRESSES: Submit your comments concerning this ICR by one of the following methods:

Mail: Attention: Desk Officer for MSPB, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235, Washington, DC 20503.

Email: oira_submission@omb.eop.gov.

You also may submit comments to MSPB by one of the following methods:

Mail: William D. Spencer, Clerk of the Board, U.S. Merit Systems Protection Board, Suite 500, 1615 M Street NW., Washington, DC 20419.

Email: Please include ''Voluntary Customer Surveys'' in the subject line of the message and send it to *mspb@mspb.gov.*

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Dr. Dee Ann Batten by phone at (202) 254–4495; by email at *deeann.batten@mspb.gov*; or by fax at (202) 653–7211.

SUPPLEMENTARY INFORMATION: Under PRA (44 U.S.C. 3501–3520), Federal agencies must obtain approval from OMB for each collection of information they conduct or sponsor. The MSPB intends to ask for a three-year renewal of its Generic Clearance Request for Voluntary Customer Surveys, OMB Control No. 3124–0012. On June 19, 2015, MSPB sought public comments on this ICR pursuant to 5 CFR 1320.8(d). See 80 FR 35404. The MSPB did not receive any comments. The MSPB is submitting the ICR to OMB for review and approval according to the procedure prescribed in 5 CFR 1320.12.

Executive Order 12862, ''Setting Customer Service Standards,'' mandates agencies to identify their customers and survey them to determine the kind and quality of services they want and their level of satisfaction with existing services. The MSPB's customers and stakeholders include persons who file appeals with MSPB for agency actions taken against them (appellants), their representatives, and representatives of the agency which took the action.

These surveys will be used to evaluate how well we are serving our customers in terms of their perceptions of timeliness, fairness, accessibility, and sensitivity to their situation in deciding their appeals. We also have used customer surveys to determine the

usefulness of the reports issued by MSPB's Office of Policy & Evaluation. As a result of these surveys we have established baseline performance measures for both our appeals process and merit systems review responsibilities.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 0.50 hours per respondent.

Respondents/Affected Entities: Participants are selected via simple or stratified random sampling to facilitate a representative sample of Federal employees.

Estimated Number of Respondents Survey: 3,000.

Frequency of Response: Once.

Estimated Total Annual Hour Burden: 750 hours.

William D. Spencer,

Clerk of the Board.

[FR Doc. 2015–21158 Filed 8–26–15; 8:45 am]

BILLING CODE 7400–01–P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts

Arts Advisory Panel Meetings

AGENCY: National Endowment for the Arts, National Foundation on the Arts and Humanities.

ACTION: Notice of meetings.

SUMMARY: Pursuant to the Federal Advisory Committee Act, as amended, notice is hereby given that one meeting of the Arts Advisory Panel to the National Council on the Arts will be held by teleconference.

DATES: All meetings are Eastern time and ending times are approximate:

Arts Education (review of applications): This meeting will be closed.

Date and time: September 15, 2015; 2:00 p.m. to 3:00 p.m.

ADDRESSES: National Endowment for the Arts, Constitution Center, 400 7th St. SW., Washington, DC 20506.

FOR FURTHER INFORMATION CONTACT: Further information with reference to these meetings can be obtained from Ms. Kathy Plowitz-Worden, Office of Guidelines & Panel Operations, National Endowment for the Arts, Washington, DC 20506; *plowitzk@arts.gov,* or call 202/682–5691.

SUPPLEMENTARY INFORMATION: The closed portions of meetings are for the purpose of Panel review, discussion, evaluation, and recommendations on financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency. In accordance with the determination of the Chairman of February 15, 2012, these sessions will be closed to the public pursuant to subsection (c)(6) of section 552b of title 5, United States Code.

Dated: August 24, 2015.

Kathy Plowitz-Worden,

Panel Coordinator, National Endowment for the Arts.

[FR Doc. 2015–21232 Filed 8–26–15; 8:45 am]

BILLING CODE 7537–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2015–0195]

Inservice Inspection of Ungrouted Tendons in Prestressed Concrete Containments

AGENCY: Nuclear Regulatory Commission.

ACTION: Regulatory guide; withdrawal.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is withdrawing Regulatory Guide (RG) 1.35, ''Inservice Inspection of Ungrouted Tendons in Prestressed Concrete Containments.'' The regulatory guide is being withdrawn because of changes in NRC regulations, which render the RG obsolete. The withdrawal does not affect the licensing bases of current licensees approved to use RG 1.35.

ADDRESSES: Please refer to Docket ID NRC–2015–0195 when contacting the NRC about the availability of information regarding this document. You may obtain publicly-available information related to this document using any of the following methods:

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2015–0195. Address questions about NRC dockets to Carol Gallagher; telephone: 301–415–3463; email: *Carol.Gallagher@nrc.gov.* For technical questions, contact the individuals listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the ADAMS Public Documents Library at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''*ADAMS Public Documents''* and then select ''*Begin Web-based ADAMS Search.''* For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The ADAMS accession number for each document referenced in this Notice (if that document is available in ADAMS) is provided the first time that a document is referenced.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: Thomas Herrity, telephone: 301–415–2351, email: *Thomas.Herrity@nrc.gov* and Edward O'Donnell, telephone: 301–415–3317, email: *Edward.ODonnell@nrc.gov.* Both are staff of the Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

SUPPLEMENTARY INFORMATION: The NRC is withdrawing Regulatory Guide 1.35 because it has been superseded by changes in NRC regulations as set forth in section 50.55a of Title 10 of the *Code of Federal Regulations* (10 CFR), ''Codes and Standards.'' The change in the regulations provides more complete and more up to date guidance.

The withdrawal of RG 1.35 does not alter any prior or existing licensing commitments based on its use. Although a regulatory guide is withdrawn, its use in existing licenses is still valid, and changes to the licenses can be accomplished using other regulatory products. Withdrawal of a regulatory guide means that the RG no longer provides useful information or has been superseded by other guidance, technological innovations, congressional actions, or other events. A withdrawn RG should not be used for future NRC licensing activities.

Since RG 1.35 was last revised in 1990, ASME Boiler and Pressure Vessel Code Section XI, Subsection IWL was issued. This subsection addresses the examination and repair/replacement of the reinforced concrete and the post-tensioning systems of concrete containments. The NRC incorporated the requirements of the 1992 Edition of the ASME Boiler and Pressure Vessel Code with the 1992 Addenda of Subsection IWL into its regulations, with specified modifications and limitations, in an amendment to section 50.55a, which was published in the **Federal Register** on August 8, 1996 (61 FR 41303). The rulemaking also required that all nuclear power plants in the United States develop and implement a containment inspection program in accordance with Section XI,

Subsection IWL (as applicable for the type of containment) by September 9, 2001. Subsequent, NRC amendments to 10 CFR 50.55a have incorporated by reference later editions of Subsection IWL, with modifications and limitations which continue to address issues addressed by RG 1.35.

The guidance provided in RG 1.35 has been incorporated into later revisions of Subsection IWL, or preserved in 10 CFR 50.55a. As a result, RG 1.35 has become redundant and is no longer needed.

Dated at Rockville, Maryland, this 21st day of August, 2015.

For the Nuclear Regulatory Commission.

Thomas H. Boyce,

Chief, Regulatory Guidance and Generic Issues Branch, Division of Engineering, Office of Nuclear Regulatory Research.

[FR Doc. 2015–21156 Filed 8–26–15; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–75744; File No. SR–BX–2015–050]

Self-Regulatory Organizations; NASDAQ OMX BX, Inc.; Notice of Filing of Proposed Rule Change To Adopt a Kill Switch

August 20, 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 August 7, 2015, NASDAQ OMX BX, Inc. (''BX'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Chapter VI, Section 6, entitled ''Acceptance of Quotes and Orders,'' of the BX rules to adopt an optional Kill Switch protection.

The text of the proposed rule change is available on the Exchange's Web site at *http://nasdaqomxbx.cchwallstreet.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the filing is to adopt a new risk protection, a Kill Switch, applicable to all BX Participants. The Kill Switch will allow BX Participants to remove quotes and cancel open orders and prevent new order submission. This feature provides firms with a powerful risk management tool for immediate control of their quote and order activity.

The Exchange proposes to amend Chapter VI, Section 6, entitled ''Acceptance of Quotes and Orders,'' to add new section (d) to adopt the Kill Switch. The BX Options Kill Switch will be an optional tool that enables Participants to initiate a message(s) [3] to the System to: (i) Promptly remove quotes; and/or (ii) promptly cancel orders. Participants may submit a request to the System to remove/cancel quotes and/or orders based on certain identifiers on either a user or group level. Participants may elect to remove quotes and cancel orders by Exchange account, port, and/or badge or mnemonic (''Identifier'') or by a group (one or more Identifier combinations),[4] which are provided by such Participant to the Exchange. Participants may not remove quotes/orders by symbol. The System will send an automated message to the Participant when a Kill Switch request has been processed by the Exchange's System.

If the Participant selects quotes to be cancelled utilizing the Kill Switch, the BX Participant must send a message to the Exchange to request the removal of all quotes requested for the certain specified Identifier(s).[5] The BX Participant will be unable to enter any additional quotes for the affected Identifier(s) until re-entry has been enabled pursuant to proposed section (d)(iii).[6]

If the Participant selects orders to be cancelled utilizing the Kill Switch, the BX Participant must send a message to the Exchange to request the cancellation of all orders requested for the certain specified Identifier(s).[7] The BX Participant will be unable to enter additional orders for the affected Identifier(s) until re-entry has been enabled pursuant to section (d)(iii).

Proposed section (d)(iii) stipulates that after quotes and/or orders are removed/cancelled by the BX Participant utilizing the Kill Switch, the BX Participant will be unable to enter additional quotes and/or orders for the affected Identifier(s) until the BX Participant has made a request to the Exchange and Exchange staff has set a re-entry indicator to enable re-entry.[8] Once enabled for re-entry, the System will send a Re-entry Notification Message to the BX Participant. The applicable Clearing Participant for that BX Participant also will be notified of the re-entry into the System after quotes and/or orders are removed/cancelled as a result of the Kill Switch, provided the Clearing Participant has requested to receive such notification.

The Exchange offers many risk mitigation and management tools today including, but not limited to, certain rapid fire risk controls,[9] 15c3–5 risk controls, Order Price Protections,[10] and cancel on disconnect and purge functionality for Specialized Quote Feed (SQF) and FIX. The Kill Switch offers Participants a means to control their exposure, through an interface which is not dependent on the integrity of the Participant's own systems, should the Participant experience a failure.

The Exchange proposes to implement this rule within ninety (90) days of the implementation date. The Exchange will issue an Options Trader Alert in advance to inform market participants of such date.

[3] BX Participants will be able to utilize an interface to send a message to the Exchange to initiate the Kill Switch or they may contact the Exchange directly.

[4] The type of group permissible would be within a broker-dealer. For example, this could be including but not limited to all market maker accounts or all order entry ports.

[5] *See* note 3.

[6] Sweeps will also be cancelled. A sweep is a one-sided electronic quote submitted over the Specialized Quote Feed, which is the market making quoting interface.

[7] *See* note 3.

[8] The BX Participant must directly and verbally contact the Exchange to request the re-set.

[9] *See* BX Rules at Chapter VII, Section 6(f).

[10] *See* BX Rules at Chapter VI, Section 18.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act [11] in general, and furthers the objectives of Section 6(b)(5) of the Act [12] in particular, in that it is designed to promote just and equitable principles of trade, to 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, by enhancing the risk protections available to Exchange members. The proposal promotes policy goals of the Commission which has encouraged execution venues, exchange and non-exchange alike, to enhance risk protection tools and other mechanisms to decrease risk and increase stability.

The individual firm benefits of enhanced risk protections flow downstream to counter-parties both at the Exchange and at other options exchanges, thereby increasing systemic protections as well. Additionally, because the Exchange offers this risk tool to all BX Participants, the Exchange believes it will encourage liquidity generally and 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.

This optional risk tool as noted above will be offered to all BX Participants. The Exchange further represents that its proposal will operate consistently with the firm quote obligations of a broker-dealer pursuant to Rule 602 of Regulation NMS and that the functionality is not mandatory. Specifically, any interest that is executable against a BX Participant's quotes and orders that are received [13] by the Exchange prior to the time the Kill Switch is processed by the System will automatically execute at the price up to the BX Participant's size. The Kill Switch message will be accepted by the System in the order of receipt in the queue and will be processed in that order so that interest that is already accepted into the System will be processed prior to the Kill Switch message.

A BX Market Makers' obligation to provide continuous two-sided quotes on a daily basis is not diminished by the removal of such quotes and/or orders by utilizing the Kill Switch. BX Market Makers will be required to provide continuous two-sided quotes on a daily basis. BX Market Makers that utilize the Kill Switch will not be relieved of the obligation to provide continuous two-sided quotes on a daily basis, nor will it prohibit the Exchange from taking disciplinary action against a BX Market Maker for failing to meet the continuous quoting obligation each trading day.

With respect to providing information regarding the removal of quotes and/or cancellation of orders as a result of the Kill Switch to the Clearing Participant, each Member that transacts through a Clearing Member on the Exchange executes a Letter of Guarantee wherein the Clearing Member accepts financial responsibility for all Exchange transactions made by the BX Participant on whose behalf the Clearing Member submits the letter of guarantee. The Exchange believes that because Clearing Members guarantee all transactions on behalf of a Participant, and therefore bear the risk associated with those transactions, it is appropriate for Clearing Members to have knowledge of the utilization of the Kill Switch, should the Clearing Member request such notification.

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 not necessary or appropriate in furtherance of the purposes of the Act. The proposal does not impose an undue burden on inter-market competition because all BX Participants may avail themselves of the Kill Switch, which functionality will be optional. The proposed rule change is meant to protect BX Participants in the event the BX Participant is suffering from a systems issue or from the occurrence of unusual or unexpected market activity that would require them to withdraw from the market in order to protect investors. The ability to control risk at either the user or group level will permit the BX Participant to protect itself from inadvertent exposure to excessive risk at the each level. Reducing such risk will enable BX Participants to enter quotes and orders without any fear of inadvertent exposure to excessive risk, which in turn will benefit investors through increased liquidity for the execution of their orders. Such increased liquidity benefits investors because they receive better prices and because it lowers volatility in the options market. For these reasons, the Exchange does not believe this proposal imposes an undue burden on inter-market competition, rather, the proposed rule change will have no impact on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission shall: (a) By order approve or disapprove such proposed rule change, or (b) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–BX–2015–050 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–BX–2015–050. 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

[11] 15 U.S.C. 78f(b).

[12] 15 U.S.C. 78f(b)(5).

[13] The time of receipt for an order or quote is the time such message is processed by the Exchange book.

printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–BX–2015–050 and should be submitted on or before September 17, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2015–21081 Filed 8–26–15; 8:45 am]

BILLING CODE 8011–01–P

[14] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–75748; File No. SR–CFE–2015–006]

Self-Regulatory Organizations; CBOE Futures Exchange, LLC; Notice of Proposed Rule Change Regarding Reportable Position and Ownership and Control Reporting Clarifications

August 21, 2015.

Pursuant to Section 19(b)(7) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on August 14, 2015 CBOE Futures Exchange, LLC (''CFE'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change described in Items I, II, and III below, which Items have been prepared by CFE. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons. CFE also has filed this proposed rule change with the Commodity Futures Trading Commission (''CFTC''). CFE filed a written certification with the CFTC under Section 5c(c) of the Commodity Exchange Act (''CEA'')[2] on August 14, 2015.

I. Self-Regulatory Organization's Description of the Proposed Rule Change

The Exchange proposes to amend CFE rules to clarify the application of CFE requirements relating to reportable positions and ownership and control reports. The scope of this filing is limited solely to the application of the rule amendments to security futures traded on CFE. The only security futures that have been traded on CFE were traded under Chapter 16 of CFE's Rulebook which is applicable to Individual Stock Based and Exchange-Traded Fund Based Volatility Index security futures. CFE does not currently list any security futures for trading. The text of the proposed rule change is attached as Exhibit 4 to the filing but is not attached to the publication of this notice.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, CFE 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. CFE has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

CFE submitted CFE Rule Certification Submission Number CFE–2015–003 (''CFE–2015–003'') to the CFTC and CFE Rule Filing Number SR–CFE–2015–001 (''SR–CFE–2015–001'')[3] to the Commission on January 28, 2015 (collectively, the ''Prior Filings'') to amend CFE Rule 412B (Ownership and Control Reports) to require CFE Trading Privilege Holders (''TPHs'') and non-TPHs to concurrently file with the Exchange submissions relating to CFE contracts that are required to be filed with the CFTC pursuant to the Final Rule adopted by the CFTC under the caption Ownership and Control Reports (''OCR Rule'').[4] In particular, the Prior Filings amended Rule 412B to require each TPH and non-TPH to file concurrently with the Exchange the new CFTC Forms 102A, 102B, and 71 (including any attachments, related submissions, or related information) relating to CFE contracts that each TPH or non-TPH is required to report to the CFTC under the OCR Rule. In addition, CFE–2015–003 amended Rule 412B to require each TPH that is not a Clearing Member to report to the Exchange the same information regarding the identification and reporting of special accounts relating to CFE contracts that the OCR Rule requires each TPH that is a Clearing Member to report to the CFTC. CFE–2015–003 provided that these changes would become effective on or after February 11, 2015, on a date to be announced by the Exchange through the issuance of a circular. The Exchange has not yet made these changes effective and intends to do so consistent with the compliance dates under the OCR Rule as provided for by the CFTC.[5]

The purpose of the proposed rule change is to make some clarifying changes with respect to the rule amendments included in the Prior Filings.

First, CFE proposes to further amend Rule 412B to make clear that TPHs and non-TPHs will continue to be required to concurrently report to the Exchange reportable positions relating to Exchange contracts that they are required to report to the CFTC pursuant to CFTC regulations. This is required under current Rule 412B, and the Exchange believes that it continues to be required by Rule 412B as amended by the Prior Filings. However, in order to eliminate any potential ambiguity in this regard, CFE is further amending Rule 412B as amended by the Prior Filings to make this explicit and is changing the title of Rule 412B to specifically reference reportable positions.

Second, CFE proposes to amend CFE Rule 714 (Imposition of Fines for Minor Rule Violations) to make new paragraph (c) of Rule 412B added by the Prior Filings subject to the same summary fine schedule under Rule 714(f)(vii) that already applies with respect to violations of paragraphs (a) and (b) of Rule 412B. Rule 412B(c) is the provision of Rule 412B that requires each TPH that is not a Clearing Member to report to the Exchange the same information regarding the identification and reporting of special accounts relating to CFE contracts that the OCR Rule requires each TPH that is a Clearing Member to report to the CFTC. The summary fine schedule under Rule 714(f)(vii) is a Letter of Caution for a first offense, a $7,500 fine for a second offense, a $15,000 fine for a third

[1] 15 U.S.C. 78s(b)(7).

[2] 7 U.S.C. 7a–2(c).

[3] *See* Securities Exchange Act Release No. 74204 (February 4, 2015), 80 FR 7518 (February 10, 2015).

[4] *See* CFTC RIN 3038–AD31, Ownership and Control Reports, Forms 102/102S, 40/40S, and 71, Final Rule, 78 FR 69178 (November 18, 2013).

[5] *See* CFTC No-Action Letter No. 15–03 (February 10, 2015) (which provided conditional time-limited no-action relief to extend certain compliance dates under the OCR Rule).

offense, and referral to CFE's Business Conduct Committee for subsequent offenses (all as measured over any twelve month rolling period).

Third, CFE is further revising the reportable volume provision in CFE Rule 1602(n)(ii) that is included in CFE's contract specification rule chapter for Individual Stock Based and Exchange-Traded Fund Based Volatility Index security futures to make clear that this provision is referencing the reportable trading volume in one of those products that triggers the requirement to report a volume threshold account to the CFTC.

The Amendment also includes some minor, non-substantive wording changes, such as to delete a reference in Rule 412B(b) to CFTC Form 102S which is not applicable with respect to CFE products.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[6] in general, and furthers the objectives of Sections 6(b)(5)[7] and 6(b)(7)[8] 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,
- to remove impediments to and perfect the mechanism of a free and open market and a national market system, and in general, to protect investors and the public interest.

The Exchange believes that the proposed rule change will strengthen its ability to carry out its responsibilities as a self-regulatory organization. CFE needs to receive the same information relating to reportable positions in CFE contracts from TPHs and non-TPHs that is required to be reported to the CFTC, as well as the information that TPHs and non-TPHs provide to the CFTC under the new OCR Rule, in order to carry out CFE's market surveillance program. The proposed rule change facilitates CFE's ability to receive this information in a form and manner that will allow its seamless integration into the market surveillance program and systems utilized by CFE and its regulatory services provider by making explicit that TPHs and non-TPHs are required to provide this information to CFE in a form and manner prescribed by the Exchange.

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(5).

[8] 15 U.S.C. 78f(b)(7).

B. Self-Regulatory Organization's Statement on Burden on Competition

CFE does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act, in that the rule change enhances CFE's market surveillance program. The Exchange believes that the proposed rule change is equitable and not unfairly discriminatory because the amendments would apply equally to all TPHs and non-TPHs that are subject to the applicable requirements.

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 proposed rule change will become effective on or after September 30, 2015, on a date to be announced by the Exchange through the issuance of a circular. At any time within 60 days of the date of effectiveness of the proposed rule change, the Commission, after consultation with the CFTC, may summarily abrogate the proposed rule change and require that the proposed rule change be refiled in accordance with the provisions of Section 19(b)(1) of the Act.[9]

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–CFE–2015–006 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–CFE–2015–006. 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–CFE–2015–006, and should be submitted on or before September 17, 2015.

[9] 15 U.S.C. 78s(b)(1).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[10]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2015–21209 Filed 8–26–15; 8:45 am]

BILLING CODE 8011–01–P

[10] 17 CFR 200.30–3(a)(73).

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 31766; 812–14372]

The RBB Fund, Inc. and Abbey Capital Limited; Notice of Application

August 21, 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 sub-advisers without shareholder approval and grant relief from the Disclosure Requirements as they relate to fees paid to the sub-advisers.

Applicants: The RBB Fund, Inc. (the ''Company''), an open-end management investment company registered under the Act with multiple series, and Abbey Capital Limited, an Irish limited liability company registered as an investment adviser under the Investment Advisers Act of 1940 (''Abbey Capital'' or the ''Adviser,'' and, collectively with the Company, the ''Applicants'').

Filing Dates: The application was filed October 15, 2014, and amended on March 20, 2015, and June 26, 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 14, 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: Abbey Capital Limited, 1–2 Cavendish Row, Dublin 1, Ireland; and Michael P. Malloy, Esq., Drinker Biddle & Reath LLP, One Logan Square, Ste. 2000, Philadelphia, PA 19103–6996.

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 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 each Subadvised Series pursuant to an investment advisory agreement with the Company (the ''Investment Advisory Agreement'').[1] The Adviser will provide the Subadvised Series with continuous and comprehensive investment management services subject to the supervision of, and policies established by, each Subadvised Series' board of directors (''Board''). The Advisory Agreement permits the Adviser, subject to the approval of the Board, to delegate to one or more Sub-Advisers the responsibility to provide the day-to-day portfolio investment management of each Subadvised Series, subject to the supervision and direction of the Adviser.[2] The primary responsibility for managing the Subadvised Series will remain vested in the Adviser. The Adviser will hire, evaluate, allocate assets to and oversee the Sub-Advisers, including determining whether a Sub-Adviser 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 a Non-Affiliated Sub-Adviser or a Wholly-Owned Sub-Adviser, pursuant to Sub-Advisory Agreements and materially amend Sub-Advisory Agreements with Non-Affiliated Sub-Advisers and Wholly-Owned Sub-Advisers without obtaining the shareholder approval required under section 15(a) of the Act and rule 18f–2 under the Act.[3] Applicants also seek an exemption from the Disclosure Requirements to permit a Subadvised Series to disclose (as both a dollar amount and a percentage of the Subadvised Series' net assets): (a) The aggregate fees paid to the Adviser and any Wholly-Owned Sub-Advisers; (b) the aggregate fees paid to Non-Affiliated Sub-Advisers, and (c) the fee paid to each Affiliated Sub-Adviser (collectively, ''Aggregate Fee Disclosure'').

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 Subadvised Series' shareholders and notification about sub-advisory changes and enhanced Board oversight to protect the interests of the Subadvised Series' 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 Investment Advisory Agreements will remain subject to shareholder approval, while the role of the Sub-Advisers is substantially equivalent to that of individual portfolio managers, so that requiring shareholder approval of Sub-Advisory Agreements would impose unnecessary delays and expenses on the Subadvised Series. 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 Sub-Advisers that are more advantageous for the Subadvised Series.

[1] Applicants request relief with respect to the named Applicants, any future series of the Company and any other existing or future registered open-end management company or series thereof that intends to rely on the requested order in the future and that: (a) Is advised by Abbey Capital or its successor or by any entity controlling, controlled by, or under common control with Abbey Capital or its successor (included in the term ''Adviser''); (b) uses the multi-manager structure described in the application; and (c) complies with the terms and conditions of the application (any such series, a ''Subadvised Series''). 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] A ''Sub-Adviser'' for a Series is (1) an indirect or direct ''wholly owned subsidiary'' (as such term is defined in the Act) of the Adviser for that Series, or (2) a sister company of the Adviser for that Series that is an indirect or direct ''wholly-owned subsidiary'' (as such term is defined in Section 2(a)(43) of the Act) of the same company that, indirectly or directly, wholly owns the Adviser (each of (1) and (2) a ''Wholly-Owned Sub Adviser'' and collectively, the ''Wholly-Owned Sub-Advisers''), or (3) an investment sub-adviser for that Series that is not an ''affiliated person'' (as such term is defined in Section 2(a)(3) of the Act) of the Series or the Adviser, except to the extent that an affiliation arises solely because the sub-adviser serves as a sub-adviser to one or more Series (each a ''Non-Affiliated Sub-Adviser'' and collectively, the ''Non-Affiliated Sub-Advisers'') .

[3] The requested relief will not extend to any sub-adviser, other than a Wholly-Owned Sub-Adviser, who is an affiliated person, as defined in section 2(a)(3) of the Act, of the Subadvised Series, the Company or of the Adviser, other than by reason of serving as a sub-adviser to one or more of the Subadvised Series (''Affiliated Sub-Adviser'').

For the Commission, by the Division of Investment Management, under delegated authority.

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2015–21206 Filed 8–26–15; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–75749; File No. SR–Phlx–2015–71]

Self-Regulatory Organizations; NASDAQ OMX PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the Options Regulatory Fee

August 21, 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 August 17, 2015, NASDAQ OMX PHLX LLC (''Phlx'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to make adjustments to its Options Regulatory Fee (''ORF'') by amending Section IV, Part D of the Pricing Schedule.

While changes to the Pricing Schedule pursuant to this proposal are effective upon filing, the Exchange has designated these changes to be operative September 1, 2015 and February 1, 2016, as noted herein.

The text of the proposed rule change is available on the Exchange's Web site at *http://nasdaqomxphlx.cchwallstreet.com/*, at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to: (1) Decrease the ORF from $0.0045 per to $0.0035 as of September 1, 2015 and increase the ORF from $0.0035 to $0.0040 as of February 1, 2016 to account for additional fine revenue, cost reductions and to balance the Exchange's regulatory revenue against the anticipated costs and potential fines; and (2) remove the requirement that the ORF may only be modified semi-annually.

Background

The ORF is assessed to each member for all options transactions executed or cleared by the member that are cleared at The Options Clearing Corporation (''OCC'') in the Customer range (*i.e.*, that clear in the Customer account of the member's clearing firm at OCC). The Exchange monitors the amount of revenue collected from the ORF to ensure that it, in combination with other regulatory fees and fines, does not exceed regulatory costs. The ORF is imposed upon all transactions executed by a member, even if such transactions do not take place on the Exchange.[3] The ORF also includes options transactions that are not executed by an Exchange member but are ultimately cleared by an Exchange member.[4] The ORF is not charged for member proprietary options transactions because members incur the costs of owning memberships and through their memberships are charged transaction fees, dues and other fees that are not applicable to non-members. The dues and fees paid by members go into the general funds of the Exchange, a portion of which is used to help pay the costs of regulation. The ORF is collected indirectly from members through their clearing firms by OCC on behalf of the Exchange.

The ORF is designed to recover a portion of the costs to the Exchange of the supervision and regulation of its members, including performing routine surveillances, investigations, examinations, financial monitoring, and policy, rulemaking, interpretive, and enforcement activities. The Exchange believes that revenue generated from the ORF, when combined with all of the Exchange's other regulatory fees, will cover a material portion, but not all, of the Exchange's regulatory costs. The Exchange will continue to monitor the amount of revenue collected from the ORF to ensure that it, in combination with its other regulatory fees and fines, do not exceed regulatory costs. If the Exchange determines regulatory revenues exceed regulatory costs, the Exchange will adjust the ORF by submitting a fee change filing to the Commission.

ORF Adjustments

The Exchange is proposing to decrease the ORF from $0.0045 to $0.0035 as of September 1, 2015 and increase the ORF from $0.0035 to $0.0040 as of February 1, 2016 in order to account for regulatory revenue from disciplinary actions taken by the Exchange. The Exchange regularly reviews its ORF to ensure that the ORF, in combination with its other regulatory fees and fines, do not exceed regulatory costs. The Exchange believes that decreasing the ORF by $0.0010 from September 1, 2015 through January 31, 2016 and then adjusting the ORF as of February 1, 2016 to $.0040 (a $0.0005 reduction from the current rates), will permit the Exchange to cover a material portion of its regulatory costs, while not exceeding regulatory costs.

Semi-Annual Changes to ORF

The Exchange previously filed a rule change to Section IV, Part D of the Pricing Schedule to specify the frequency with which the Exchange may change the ORF.[5] At that time, the

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The ORF applies to all ''C'' account origin code orders executed by a member on the Exchange. Exchange Rules require each member to record the appropriate account origin code on all orders at the time of entry in order to allow the Exchange to properly prioritize and route orders and assess transaction fees pursuant to the Rules of the Exchange and report resulting transactions to OCC. *See* Exchange Rule 1063, Responsibilities of Floor Brokers, and Options Floor Procedure Advice F–4, Orders Executed as Spreads, Straddles, Combinations or Synthetics and Other Order Ticket Marking Requirements. The Exchange represents that it has surveillances in place to verify that members mark orders with the correct account origin code.

[4] In the case where one member both executes a transaction and clears the transaction, the ORF is assessed to the member only once on the execution. In the case where one member executes a transaction and a different member clears the transaction, the ORF is assessed only to the member who executes the transaction and is not assessed to the member who clears the transaction. In the case where a non-member executes a transaction and a member clears the transaction, the ORF is assessed to the member who clears the transaction.

[5] *See* Securities Release No. 71569 (February 19, 2014), 79 FR 10593 (February 25, 2014) (SR–Phlx–2014–12).

Exchange amended the Pricing Schedule to specify that the Exchange may only increase or decrease the ORF semi-annually, and any such fee change will be effective on the first business day of February or August.[6] The Exchange stated in that filing, ''[i]n addition to submitting a proposed rule change to the Securities and Exchange Commission (''Commission'') as required by the Act to increase or decrease the ORF, the Exchange will notify participants via an Options Trader Alert of any anticipated change in the amount of the fee at least 30 calendar days prior to the effective date of the change.'' [7]

The Exchange is proposing to eliminate the requirement that its ORF may be only increased or decreased semi-annually because the Exchange believes it requires the flexibility to amend its ORF as needed to meet its regulatory requirements and adjust its ORF to account for the regulatory revenue that it receives and the costs that it incurs, as evidenced by the adjustments proposed in this rule change. While the Exchange is eliminating the requirement to adjust only semi-annually, it will continue to submit a rule proposal with the Commission for each modification to the ORF and notify participants via an Options Trader Alert of any anticipated change in the amount of the fee at least thirty (30) calendar days prior to the effective date. The Exchange believes that the prior notification to market participants will provide guidance on the timing of any changes to the ORF and ensure market participants are prepared to configure their systems to properly account for the ORF.

While changes to the Pricing Schedule pursuant to this proposal are effective upon filing, the Exchange has designated these changes to be operative September 1, 2015 and February 1, 2016, as noted herein.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,[8] in general, and with Section 6(b)(4) and 6(b)(5) of the Act,[9] in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility or system that the Exchange operates or controls, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange believes that lowering the ORF from $0.0045 to $0.0035 as of September 1, 2015 and then increasing the ORF from $0.0035 to $0.0040 as of February 1, 2016 is reasonable because the Exchange's collection of ORF needs to be balanced against the amount of regulatory revenue collected by the Exchange. The Exchange believes that the proposed adjustments noted herein will serve to balance the Exchange's regulatory revenue against the anticipated regulatory costs. It is further reasonable because both price changes discussed herein represent a price reduction compared to the current rate of $0.0045.

The Exchange believes that lowering the ORF from $0.0045 to $0.0035 as of September 1, 2015 and then increasing the ORF from $0.0035 to $0.0040 as of February 1, 2016 is equitable and not unfairly discriminatory because these adjustments would be applicable to all members on all of their transactions that clear as Customer at OCC. In addition, the ORF seeks to recover the costs of supervising and regulating members, including performing routine surveillances, investigations, examinations, financial monitoring, and policy, rulemaking, interpretive, and enforcement activities. The ORF is not charged for member proprietary options transactions because members incur the costs of owning memberships and through their memberships are charged transaction fees, dues and other fees that are not applicable to non-members. Moreover, the Exchange believes the ORF ensures fairness by assessing higher fees to those members that require more Exchange regulatory services based on the amount of Customer options business they conduct. Regulating Customer trading activity is more labor intensive and requires greater expenditure of human and technical resources than regulating non-Customer trading activity. Surveillance, regulation and examination of non-Customer trading activity generally tends to be more automated and less labor intensive. As a result, the costs associated with administering the Customer component of the Exchange's overall regulatory program are anticipated to be higher than the costs associated with administering the non-Customer component of its regulatory program. As such, the Exchange proposes assessing higher fees to those members that will require more Exchange regulatory services based on the amount of Customer options business they conduct.[10] Additionally, the dues and fees paid by members go into the general funds of the Exchange, a portion of which is used to help pay the costs of regulation.

The Exchange believes that the proposed rule change to remove the limit to amend the ORF only semi-annually, with advance notice, is reasonable because the Exchange will continue to provide market participants with thirty (30) days advance notice of amending its ORF. Also, the Exchange is required to monitor the amount of revenue collected from the ORF to ensure that it, in combination with its other regulatory fees and fines, do not exceed regulatory costs. Therefore, the Exchange believes it is reasonable to remove the semi-annual limit to amend its ORF in order to permit the Exchange to make amendments to its ORF as necessary to comply with the Exchange's obligations.

The Exchange believes that the proposed rule change to remove the limit to amend the ORF only semi-annually, with advance notice, is equitable and not unfairly discriminatory because it will apply in the same manner to all members that are subject to the ORF. Moreover, the Exchange believes that the proposed ORF is a small incremental cost for Customer executions.[11] The Exchange has in place a regulatory structure to surveil for, exam [sic] and monitor the marketplace for violations of Exchange Rules. The ORF assists the Exchange to fund the cost of this regulation of the marketplace.

Also, all members will continue to receive advance notice of changes to the ORF.

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 not necessary or appropriate in furtherance of the purposes of the Act. The Exchange does not believe that adjusting its ORF creates an undue burden on inter-market or intra-market competition. The Exchange will adjust its ORF for all members on all of their transactions that clear as Customer at OCC. The Exchange is obligated to

[6] *Id.*

[7] *Id.*

[8] 15 U.S.C. 78f.

[9] 15 U.S.C. 78f(b)(4) and (5).

[10] The ORF is not charged for orders that clear in categories other than the Customer range at OCC (*e.g.,* Market Maker orders) because members incur the costs of memberships and through their memberships are charged transaction fees, dues and other fees that go into the general funds of the Exchange, a portion of which is used to help pay the costs of regulation.

[11] The Exchange does not assess a Customer any transaction fees in Multiply Listed Options, except in SPY, and pays Customer rebates.

ensure that the amount of regulatory revenue collected from the ORF, in combination with its other regulatory fees and fines, does not exceed regulatory costs. Additionally, the dues and fees paid by members go into the general funds of the Exchange, a portion of which is used to help pay the costs of regulation. The Exchange's members are subject to ORF on other options markets.[12]

The Exchange does not believe that removing the limit to amend the ORF semi-annually, with advance notice, creates an undue burden on competition. The Exchange will continue to provide the same advance notice of changes to the ORF as it does today.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act.[13] At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml);* or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–Phlx–2015–71 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–Phlx–2015–71. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml).* Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–Phlx–2015–71 and should be submitted on or before September 17, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2015–21208 Filed 8–26–15; 8:45 am]

BILLING CODE 8011–01–P

[12] For example, *see* the Chicago Board Options Exchange, Incorporated's Fees Schedule and the International Securities Exchange, LLC's Fee Schedule.

[13] 15 U.S.C. 78s(b)(3)(A)(ii).

[14] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–75750; File No. SR–NYSEArca–2015–72]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to the Use of Derivative Instruments by the SPDR Blackstone/GSO Senior Loan ETF

August 21, 2015.

Pursuant to section 19(b)(1)[1] of the Securities Exchange Act of 1934 (the ''Act'')[2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on August 11, 2015, NYSE Arca, Inc. (the ''Exchange'' or ''NYSE Arca'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to reflect a change to the means of achieving the investment objective applicable to the SPDR Blackstone/GSO Senior Loan ETF (the ''Fund'') relating to its use of derivative instruments. Shares of the Fund are currently listed and traded on the Exchange under NYSE Arca Equities Rule 8.600 (''Managed Fund Shares''). 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.

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Commission has approved listing and trading on the Exchange of shares (''Shares'') of the Fund under NYSE Arca Equities Rule 8.600, which governs the listing and trading of Managed Fund Shares on the Exchange.[4] The Shares are offered by SSgA Active ETF Trust (''Trust''), which is organized as a Massachusetts business trust and is registered with the Commission as an open-end management investment company. SSgA Funds Management, Inc. (''Adviser'') serves as the investment adviser to the Fund. GSO/Blackstone Debt Funds Management LLC serves as sub-adviser (''Sub-Adviser'') to the Blackstone/GSO Senior Loan Portfolio (''Portfolio'') and the Fund, subject to supervision by the Adviser and the Trust's Board of Trustees (''Board''). State Street Global Markets, LLC is the principal underwriter and distributor of the Fund's Shares, and State Street Bank and Trust Company (''Custodian'') serves as administrator, custodian, and transfer agent for the Fund.[5]

Shares of the Fund are currently listed and traded on the Exchange.[6] In this proposed rule change, the Exchange proposes to change the description of the Fund's use of derivative instruments, as described below.

On December 6, 2012, the staff of the Commission's Division of Investment Management (''Division'') issued a no-action letter (''No-Action Letter'') relating to the use of derivatives by actively-managed exchange-traded funds (''ETFs'').[7] The No-Action Letter noted that, in March of 2010, the Commission announced in a press release that the staff was conducting a review to evaluate the use of derivatives by mutual funds, ETFs, and other investment companies and that, pending completion of this review, the staff would defer consideration of exemptive requests under the 1940 Act relating to, among others, actively-managed ETFs that would make significant investments in derivatives.

The No-Action Letter stated that the Division staff will no longer defer consideration of exemptive requests under the 1940 Act relating to actively-managed ETFs that make use of derivatives provided that they include representations to address some of the concerns expressed in the Commission's March 2010 press release. These representations are: (i) That the ETF's board periodically will review and approve the ETF's use of derivatives and how the ETF's investment adviser assesses and manages risk with respect to the ETF's use of derivatives; and (ii) that the ETF's disclosure of its use of derivatives in its offering documents and periodic reports is consistent with relevant Commission and staff guidance (together, the ''No-Action Letter Representations''). The No-Action Letter stated that the Division would not recommend enforcement action to the Commission under sections 2(a)(32), 5(a)(1), 17(a), 22(d), and 22(e) of the 1940 Act, or rule 22c–1 under the 1940 Act if actively-managed ETFs operating in reliance on specified orders (which include the Trust's Exemptive Order[8]) invest in options contracts, futures contracts or swap agreements provided that they comply with the No-Action Letter Representations.[9]

The Prior Release included the following representation: ''The Portfolio will not invest in options contracts, futures contracts or swap agreements'' (the ''Derivatives Representation''). In view of the No-Action Letter, the Exchange is proposing to delete the Derivatives Representation. The Exchange now proposes that, to pursue the Fund's investment objective, the Fund be permitted to invest in options, futures, and swaps (''Derivative Instruments''), as described below.

Going forward, the Portfolio may buy and sell exchange-listed and over-the-counter (''OTC'') swaps based on total return senior loan and credit default indices; futures contracts and options on futures contracts based on senior loan and credit default indices; and exchange-listed and OTC options on senior loan and credit default indices.

The Portfolio will only enter into futures contracts and exchange-traded options on futures contracts that are traded on a national futures exchange that is regulated by the Commodities Futures Trading Commission (''CFTC'') and that is a member of the Intermarket Surveillance Group (''ISG'').[10] Other exchange-traded options contracts in which the Portfolio invests will be traded on a national securities exchange. The Fund may use such index futures contracts and related options on futures contracts, other options contracts, and exchange-listed and OTC swaps for bona fide hedging; attempting to offset changes in the value of securities held or expected to be acquired or be disposed of; attempting to gain exposure to a particular market, index or instrument; or other risk management purposes.

Under normal market conditions, no more than 20% of the value of the Fund's net assets will be invested in Derivative Instruments.[11]

[4] The Commission originally approved the listing and trading of the Shares on the Exchange on March 27, 2013. *See* Securities Exchange Act Release No. 69244 (March 27, 2013), 78 FR 19766 (April 2, 2013) (SR–NYSEArca–2013–08) (''Prior Order''). *See also* Securities Exchange Act Release No. 68862 (February 2, 2013), 78 FR 10233 (February 13, 2013) (SR–NYSEArca–2013–08) (''Prior Notice'' and, together with the Prior Order, the ''Prior Release'').

[5] The Trust is registered under the Investment Company Act of 1940 (15 U.S.C. 80a–1) (''1940 Act''). On April 1, 2011, the Trust filed with the Commission Form N–1A under the Securities Act of 1933 (15 U.S.C. 77a), and under the 1940 Act relating to the Fund (File Nos. 333–173276 and 811–22524) (''Registration Statement''). The description of the operation of the Trust and the Fund herein is based, in part, on the Registration Statement. In addition, the Commission has issued an order granting certain exemptive relief to the Trust under the 1940 Act. See Investment Company Act Release No. 29524 (December 13, 2010) (File No. 812–13487) (''Exemptive Order'').

[6] The Adviser represents that the Adviser and the Sub-Adviser have managed and will continue to manage the Fund in the manner described in the Prior Release, and will not implement the changes described herein until the instant proposed rule change is operative.

[7] *See* No-Action Letter dated December 6, 2012 from Elizabeth G. Osterman, Associate Director, Office of Exemptive Applications, Division of Investment Management.

[8] *See supra* note 5.

[9] The Adviser acknowledges that for the Fund to rely on the No-Action Letter, the Fund must comply with the No-Action Letter Representations. In this regard, (i) the Board of Trustees of the Trust will periodically review and approve the Portfolio's use of derivatives and how the Adviser assesses and manages risk with respect to the Portfolio's use of derivatives and (ii) the Fund's disclosure of its use of derivatives in its offering documents and periodic reports will be consistent with relevant Commission and staff guidance.

[10] To the extent the Portfolio invests in futures, options on futures or other instruments subject to regulation by the CFTC, it will do so in reliance on and in compliance with CFTC regulations in effect from time to time and in accordance with the Fund's policies. The Trust, on behalf of certain of its series, has filed a notice of eligibility for exclusion from the definition of the term ''commodity pool operator'' in accordance with CFTC Regulation 4.5. Therefore, neither the Trust nor the Fund is deemed to be a ''commodity pool'' or ''commodity pool operator'' with respect to the Fund under the Commodity Exchange Act (''CEA''), and they are not subject to registration or regulation as such under the CEA. In addition, as of the date of this filing, the Adviser is not deemed to be a ''commodity pool operator'' or ''commodity trading adviser'' with respect to the advisory services it provides to the Fund. The CFTC recently adopted amendments to CFTC Regulation 4.5 and has proposed additional regulatory requirements that may affect the extent to which the Portfolio invests in instruments that are subject to regulation by the CFTC and impose additional regulatory obligations on the Fund and the Adviser. The Fund reserves the right to engage in transactions involving futures and options thereon to the extent allowed by CFTC regulations in effect from time to time and in accordance with the Fund's policies.

[11] The Portfolio will limit its direct investments in futures to the extent necessary for the Adviser to claim the exclusion from regulation as a ''commodity pool operator'' with respect to the Fund under Rule 4.5 promulgated by the CFTC, as

The Prior Release stated that the Portfolio's investments would be consistent with the Portfolio's investment objective and would not be used to enhance leverage. In view of the Exchange's proposal to permit the Fund to use Derivative Instruments, the Portfolio's investments in Derivative Instruments could potentially be used to enhance leverage. However, the Portfolio's investments in Derivative Instruments will be consistent with the Portfolio's investment objective and will not be used to seek to achieve a multiple or inverse multiple of an index.

Investments in Derivative Instruments will be made in accordance with the 1940 Act and consistent with the Fund's investment objective and policies. The Fund will comply with the regulatory requirements of the Commission to maintain assets as ''cover,'' maintain segregated accounts, and/or make margin payments when it takes positions in Derivative Instruments involving obligations to third parties (*i.e.,* instruments other than purchase options). If the applicable guidelines prescribed under the 1940 Act so require, the Fund will earmark or set aside cash, U.S. government securities, high grade liquid debt securities and/or other liquid assets permitted by the Commission in a segregated custodial account in the amount prescribed.[12]

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 Derivative Instruments, may give rise to leverage, causing the Fund to be more volatile than if it had not been leveraged.[13]

Based on the above, the Exchange seeks this modification regarding the Fund's use of Derivative Instruments. The Adviser represents that there is no change to the Fund's investment objective. The Adviser and the Sub-Adviser believe that the ability to invest in Derivative Instruments will provide the Adviser and Sub-Adviser with additional flexibility to meet the Fund's investment objective.

The Fund will continue to comply with all initial and continued listing requirements under NYSE Arca Equities Rule 8.600.

Except for the changes noted herein, all other facts presented and representations made in the Prior Release remain unchanged.

The changes described herein will be effective upon (i) the effectiveness of an amendment to the Trust's Registration Statement disclosing the Fund's intended use of Derivative Instruments and (ii) when this proposed rule change has become operative. The Adviser represents that the Adviser and Sub-Adviser have managed and will continue to manage the Fund in the manner described in the Prior Release, and will not implement the changes described herein until this proposed rule change is operative.

Impact on Arbitrage Mechanism

The Adviser believes there will be minimal, if any, impact to the arbitrage mechanism as a result of the use of Derivative Instruments. Market makers and participants should be able to value derivatives as long as the positions are disclosed with relevant information. The Adviser believes that the price at which Shares trade will continue to be disciplined by arbitrage opportunities created by the ability to purchase or redeem Creation Units (as defined in the Prior Release at their net asset value (''NAV''), which should ensure that Shares will not trade at a material discount or premium in relation to their NAV.

The Adviser does not believe there will be any significant impacts to the settlement or operational aspects of the Fund's arbitrage mechanism due to the use of derivatives. Certain derivatives may not be eligible for in-kind transfer, and such derivatives will be substituted with a ''cash in lieu'' amount when the Fund processes purchases or redemptions of Creation Units (as defined in the Prior Release) in-kind.

Valuation for Purposes of Calculating Net Asset Value

As stated in the Prior Release, the NAV per Share for the Fund will be 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, rounded to the nearest cent. Expenses and fees, including the management fees, are accrued daily and taken into account for purposes of determining NAV. The NAV per Share for the Fund is calculated by the Custodian and determined as of the close of the regular trading session on the New York Stock Exchange (''NYSE'') (ordinarily 4:00 p.m., E.T.) on each day that the NYSE is open.

U.S. exchange-traded options will be valued at the closing price determined by the applicable exchange. The Fund will generally value exchange-traded futures at the settlement price determined by the applicable exchange. Exchange-traded swaps generally will be valued by pricing services. Non exchange-traded derivatives (*i.e.,* OTC options and OTC swaps) will normally be valued on the basis of quotes obtained from brokers and dealers or third party pricing services using data reflecting the earlier closing of the principal markets for those assets. 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. Exchange-traded options, futures and options on futures will generally be valued at the settlement price determined by the applicable exchange. Derivatives for which market quotes are readily available will be valued at market value.

Availability of Information

As described in the Prior Release, on each business day, before commencement of trading in Shares in the Core Trading Session on the Exchange, the Fund discloses on its Web site the Disclosed Portfolio as defined in NYSE Arca Equities Rule 8.600(c)(2) that will form the basis for the Fund's calculation of NAV at the end of the business day. *See* ''Disclosed Portfolio'' below.

Pricing information for Derivative Instruments traded OTC (*i.e.,* OTC options and OTC swaps) will be available from major broker-dealer firms, subscription services, and/or pricing services and, in addition, for exchange-traded Derivative Instruments, from the exchanges on which they are traded.

Intra-day and closing price information regarding exchange traded swaps, options (including options on futures) and futures will be available from the exchange on which such instruments are traded. Quotation and last sale information for exchange-traded options cleared via the Options

such rule may be amended from time to time. Under Rule 4.5 as currently in effect, the Portfolio will limit its trading activity in futures and options on futures (excluding activity for ''bona fide hedging purposes,'' as defined by the CFTC) such that it will meet one of the following tests: (i) Aggregate initial margin and premiums required to establish its futures and options on futures will not exceed 5% of the liquidation value of the Fund's portfolio, after taking into account unrealized profits and losses on such positions; or (ii) aggregate net notional value of its futures and options on futures will not exceed 100% of the liquidation value of the Fund's portfolio, after taking into account unrealized profits and losses on such positions.

[12] With respect to guidance under the 1940 Act, *see* 15 U.S.C. 80a–18; Investment Company Act Release No. 10666 (April 18, 1979), 44 FR 25128 (April 27, 1979); *Dreyfus Strategic Investing,* Commission No-Action Letter (June 22, 1987); *Merrill Lynch Asset Management, L.P.,* Commission No-Action Letter (July 2, 1996).

[13] To mitigate leveraging risk, the Fund will segregate or ''earmark'' liquid assets or otherwise cover the transactions that may give rise to such risk.

Clearing Corporation is available from the Options Price Reporting Authority.

Disclosed Portfolio

The Fund's disclosure of derivative positions in the Disclosed Portfolio will include information that market participants can use to value these positions intraday. On a daily basis, the Fund will disclose on the Fund's Web site the following information regarding each portfolio holding, as applicable to the type of holding: Ticker symbol, CUSIP number or other identifier, if any; a description of the holding (including the type of holding, such as type of swap); the identity of the security or other asset or instrument underlying the holding, if any; for options, the option strike price; quantity held (as measured by, for example, par value, notional value or number of shares, contracts or units); maturity date, if any; coupon rate, if any; effective date, if any; market value of the holding; and the percentage weighting of the holding in the Fund's portfolio.

Surveillance

The Exchange represents that trading in the Shares will be subject to the existing trading surveillances, administered by the Financial Industry Regulatory Authority (''FINRA'') on behalf of the Exchange, which are designed to detect violations of Exchange rules and applicable federal securities laws.[14] The Exchange represents that these procedures are adequate to properly monitor Exchange trading of the Shares in all trading sessions and to deter and detect violations of Exchange rules and federal securities laws applicable to trading on the Exchange.

The surveillances referred to above generally focus on detecting securities trading outside their normal patterns, which could be indicative of manipulative or other violative activity. When such situations are detected, surveillance analysis follows and investigations are opened, where appropriate, to review the behavior of all relevant parties for all relevant trading violations.

FINRA, on behalf of the Exchange, will communicate as needed regarding trading in the Shares, exchange-traded options, exchange-traded futures and exchange-traded options on futures with other markets and other entities that are members of the ISG, and FINRA, on behalf of the Exchange, may obtain trading information regarding trading in the Shares, exchange-traded options, exchange-traded futures and exchange-traded options on futures from such markets and other entities. In addition, the Exchange may obtain information regarding trading in the Shares, exchange-traded options, exchange-traded futures and exchange-traded options on futures, from markets and other entities that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.[15]

All futures contracts, exchange-traded options on futures contracts, and other exchange-traded options contracts in which the Portfolio invests will be traded on markets that are members of ISG.

In addition, the Exchange also has a general policy prohibiting the distribution of material, non-public information by its employees.

2. *Statutory Basis*

The basis under the Act for this proposed rule change is the requirement under section 6(b)(5)[16] that an exchange have rules that are designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to, and perfect the mechanism of a free and open market and, in general, to protect investors and the public interest.

The Exchange believes that the proposed rule change is designed to prevent fraudulent and manipulative acts and practices in that, under normal market conditions, no more than 20% of the value of the Fund's net assets will be invested in Derivative Instruments. The Fund's investments in Derivative Instruments will be consistent with the Fund's investment objective and will not be used to seek to achieve a multiple or inverse multiple of an index. Investments in Derivative Instruments will be made in accordance with the 1940 Act and consistent with the Fund's investment objective and policies. The Fund will comply with the regulatory requirements of the Commission to maintain assets as ''cover,'' maintain segregated accounts, and/or make margin payments when it takes positions in Derivative Instruments involving obligations to third parties (*i.e.,* instruments other than purchase options). If the applicable guidelines prescribed under the 1940 Act so require, the Fund will earmark or set aside cash, U.S. government securities, high grade liquid debt securities and/or other liquid assets permitted by the Commission in a segregated custodial account in the amount prescribed. Moreover, the Fund will include appropriate risk disclosure in its offering documents, including leveraging risk.

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 Fund's disclosure of positions in Derivative Instruments in the Disclosed Portfolio will include information that market participants can use to value these positions intraday. On a daily basis, the Fund will disclose on the Fund's Web site specific information regarding each portfolio holding, as applicable to the type of holding. The Fund may use futures contracts and related options for bona fide hedging; attempting to offset changes in the value of securities held or expected to be acquired or be disposed of; attempting to gain exposure to a particular market, index or instrument; or other risk management purposes. In addition, such proposed change will provide the Adviser and Sub-Adviser with additional flexibility in meeting the Fund's investment objective. The Adviser does not believe there will be any significant impacts to the settlement or operational aspects of the Fund's arbitrage mechanism due to the use of derivatives. In addition, the Commission has previously approved the use of derivatives similar to those proposed herein by issues of Managed Fund Shares traded on the Exchange.[17] Consistent with the Prior Release, NAV will continue to be calculated daily and the NAV and Disclosed Portfolio (as defined in NYSE Arca Equities Rule 8.600(c)(2)) will be made available to all market participants at the same time.

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 actively-managed exchange-traded product that will enhance competition among market participants, to the benefit of investors and the marketplace.

[14] 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.

[15] For a list of the current members of ISG, *see www.isgportal.org.* The Exchange notes that not all components of the Disclosed Portfolio for the Fund may trade on markets that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.

[16] 15 U.S.C. 78f(b)(5).

[17] *See, e.g.,* Securities Exchange Act Release Nos. 73081 (September 11, 2014), 79 FR 55859 (September 17, 2014) (SR–NYSEArca–2014–20) (order approving listing and trading on the Exchange of shares of the Reality Shares DIVS ETF under NYSE Arca Equities Rule 8.600); 72882 (August 20, 2014), 79 FR 50964 (August 26, 2014) (SR–NYSEArca–2014–58) (order approving listing and trading on the Exchange of shares of the PIMCO Short-Term Exchange-Traded Fund and the PIMCO Municipal Bond Exchange-Traded Fund under NYSE Arca Equities Rule 8.600).

As noted, the additional flexibility to be afforded to the Adviser and Sub-Adviser by permitting the Fund to invest in Derivative Instruments under the proposed rule change is intended to enhance the Adviser's and Sub-Adviser's ability to meet the Fund's investment objective. FINRA, on behalf of the Exchange, will communicate as needed regarding trading in the Shares, exchange-traded options, exchange-traded futures and exchange-traded options on futures with other markets and other entities that are members of the ISG, and FINRA, on behalf of the Exchange, may obtain trading information regarding trading in the Shares, exchange-traded options, exchange-traded futures and exchange-traded options on futures from such markets and other entities. In addition, the Exchange may obtain information regarding trading in the Shares, exchange-traded options, exchange-traded futures and exchange-traded options on futures 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, as indicated in the Prior Release, investors will have ready access to information regarding the Fund's holdings, the Portfolio Indicative Value (as defined in NYSE Arca Equities Rule 8.600(d)(2)(A)), the Disclosed Portfolio, and quotation and last sale information for the Shares. Consistent with the No-Action Letter, (i) the Board of Trustees of the Trust will periodically review and approve the Fund's use of derivatives and how the Adviser assesses and manages risk with respect to the Fund's use of derivatives and (ii) the Fund's disclosure of its use of derivatives in its offering documents and periodic reports will be consistent with relevant Commission and staff guidance.

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 the proposed rule change will permit the Adviser and Sub-Adviser additional flexibility in achieving the Fund's investment objective, thereby offering investors additional investment options. The proposed rule change will allow the Fund to use Derivative Instruments as a more efficient substitute for taking a position in the underlying asset and/or as part of a strategy designed to reduce exposure to risks (such as interest rate), enhance liquidity or to enhance investment returns. The proposed change, therefore, will provide additional flexibility to the Adviser and Sub-Adviser to seek the Fund's investment objective and will enhance the Fund's ability to compete with other actively managed exchange-traded funds and mutual funds.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, 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 [18] and Rule 19b–4(f)(6) thereunder.[19]

At any time within 60 days of the filing of the proposed rule change, the Commission may temporarily suspend this rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSEArca–2015–72 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEArca–2015–72. 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 this filing will also be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEArca–2015–72 and should be submitted on or before September 17, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[20]

Robert W. Errett,

Deputy Secretary.

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BILLING CODE 8011–01–P

[18] 15 U.S.C. 78s(b)(3)(A).

[19] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[20] 17 CFR 200.30–3(a)(12).

TENNESSEE VALLEY AUTHORITY

Environmental Impact Statement—Closure of CCR Impoundments

AGENCY: Tennessee Valley Authority.

ACTION: Notice of intent.

SUMMARY: The Tennessee Valley Authority (TVA) intends to prepare an Environmental Impact Statement (EIS) to address the closure of coal combustion residual (CCR) impoundments at its coal-fired power plants. CCRs are byproducts produced from the combustion of coal or the control of combustion emissions and include fly ash, bottom ash, boiler slag, and flue gas desulfurization materials. The purpose of this EIS is to facilitate TVA's compliance with the CCR Rule that the U.S. Environmental Protection Agency (EPA) issued on April 17, 2015. This also will provide the public a meaningful opportunity to comment on the issues associated with that effort.

This EIS will programmatically consider the impacts of the two primary closure methods: (1) Closure-in-Place and (2) Closure-by-Removal. It will also consider the site-specific impacts of closing 11 of TVA's impoundments within three years. Public comment is invited concerning the scope of this EIS.

DATES: Comments on the scope of the EIS must be received on or before September 30, 2015.

ADDRESSES: Written comments should be sent to Ashley Farless, Tennessee Valley Authority, 1101 Market St., BR4A, Chattanooga, TN 37402. Comments also may be submitted to *http://www.tva.gov/environment/reports/ccr* or by email to *CCR@tva.gov.*

FOR FURTHER INFORMATION CONTACT: Ashley Farless, 1101 Market Street, BR 4A, Chattanooga, TN 37402, 423.751.2361, *CCR@tva.gov.*

SUPPLEMENTARY INFORMATION: This notice is provided in accordance with the regulations promulgated by the Council on Environmental Quality (40 CFR parts 1500 to 1508) and TVA's procedures implementing the National Environmental Policy Act (*http://www.tva.com/environment/reports/pdf/tvanepa_procedures.pdf.*)

TVA Power System and CCR Management

TVA is a federal agency and instrumentality of the United States, established by an act of Congress in 1933. Its broad mission is to foster the social and economic welfare of the people of the Tennessee Valley region and to promote the proper use and conservation of the region's natural resources. One component of this mission is the generation, transmission, and sale of reliable and affordable electric energy.

TVA operates the nation's largest public power system, producing approximately 4 percent of all of the electricity in the nation. TVA provides electricity to most of Tennessee and parts of Virginia, North Carolina, Georgia, Alabama, Mississippi, and Kentucky. Currently, it serves more than 9 million people in this seven-state region. The TVA Act requires the TVA power system to be self supporting and operated on a nonprofit basis and directs TVA to sell electricity at rates as low as are feasible. TVA receives no appropriations.

Most of the electricity is generated on the TVA system from 3 nuclear plants, 10 coal-fired plants, 9 simple-cycle combustion turbine plants, 6 combined-cycle combustion turbine plants, 29 hydroelectric dams, a pumped-storage facility, a wind-turbine facility, a methane-gas cofiring facility, a diesel-fired facility, and several small solar photovoltaic facilities. Only its coal-fired power plants produce CCRs.

Historically, TVA has managed its CCRs in wet impoundments or dry landfills. After a CCR impoundment at its Kingston power plant failed in 2008, TVA committed to converting its CCR impoundments to dry systems. TVA has coal-fired plants and CCR impoundments in Alabama, Kentucky, and Tennessee. Its CCR impoundments or wet CCR management facilities vary in size from less than 10 acres to more than 300 acres. All of TVA's CCR facilities operate under permits issued by the States in which they are located.

EPA's CCR Rule and Determinations

EPA's April 2015 CCR Rule establishes national criteria and schedules for the management and closure of CCR facilities. To support this rule, EPA compiled an extensive administrative record, including a number of technical and scientific studies. EPA decided to continue to regulate CCRs as solid waste and determined that compliance with its CCR criteria would ensure that CCR management activities and facilities would not pose a reasonable probability of adverse effects on health or the environment. The rule establishes location restrictions, liner design criteria, structural integrity requirements, operating criteria, groundwater monitoring and corrective action requirements, closure and post-closure care requirements, and recordkeeping, notification, and internet posting requirements.

EPA indicated that current management of CCRs poses risks primarily associated with potential structural failures and groundwater contamination. In its technical analyses, EPA determined that CCR impoundments posed greater risks than CCR landfills because ponded water creates a hydraulic head that can stress impoundment structural integrity and promote groundwater contamination.

EPA's rule establishes two primary closure methods: (1) Closure with CCR in Place and (2) Closure through Removal. Closure-in-Place involves removing standing water from an impoundment and installing a final cover system that minimizes the infiltration of water. Closure-by-Removal involves excavating and relocating the CCRs from an impoundment (or beneficially using them in products or structural fills). EPA observed that most facilities would be closed in place because of the difficulty and cost of Closure-by-Removal. It determined that either closure method would be equally protective if done properly.

Closure-in-Place v. Closure-by-Removal

TVA has decided to perform a programmatic review of the potential impacts of the two primary closure methods. EPA's technical analyses lend themselves to and support such an approach. Conclusions reached from such a programmatic comparison generally should be applicable to any CCR impoundment on the TVA system regardless of the location. Site specific conditions would affect the potential magnitude of effects, but not the kind of effects. For example, Closure-by-Removal would require excavating the accumulated CCRs and transporting them elsewhere either for beneficial use or disposal in a CCR-compliant or municipal solid waste landfill. In every instance where CCRs are moved off site there would be transportation impacts of some kind and to some degree depending on the transportation distance and method. Identifying, assessing, and contrasting the effects of these two closure methods on a generic basis would allow their merits to be considered by the public, interested stakeholders, and TVA decision makers. In this programmatic review, TVA may be able to identify general criteria for method selection that could be applied to site-specific closure actions when those are assessed.

Site-Specific Actions

EPA structured its CCR Rule to encourage regulated entities to accelerate the closure of CCR impoundments because of the significant decrease in risk that results from eliminating the hydraulic head of ponded water. EPA determined that once a CCR impoundment is dewatered and closed, the risks are no greater than those of an inactive CCR landfill that is not subject to additional requirements

under the rule. This would require TVA to cease sending CCRs to an impoundment by October 19, 2015, remove the water, and close it by April 17, 2018. TVA has identified 11 CCR impoundments at six of its plants that it could cease using and close within the required timeframe. These are facilities at its Allen, Bull Run, Kingston and John Sevier plants in Tennessee and at its Widows Creek and Colbert plants in Alabama. The EIS would assess the site specific impacts of such closures.

EIS Scope

Scoping is a process that allows the public to comment on an agency's plans for an EIS. This includes identifying issues that should be studied and those that have little significance. The public's views on the alternatives that should be addressed also can be helpful in preparing an EIS.

Programmatically, TVA proposes to examine two closure alternatives, Closure-in-Place and Closure-by-Removal. The EIS will address different methods of implementing the two closure approaches, including partial removal of CCRs. Various kinds of caps or surface liners could be used for Closure-in-Place and the merits of those approaches, sub-alternatives, will be addressed. Closure-by-Removal could involve moving CCRs off-site by truck, rail, or barge transportation and the potential impacts of these alternative transportation methods would be addressed. At the site-specific level, TVA will examine in more specific detail the implications of closing these eleven impoundments. TVA encourages the public to comment on this.

At either the programmatic or site-specific level, the typical range of resource impacts addressed in EISs would be assessed. This would include surface and groundwater impacts that were a focus of EPA's technical assessments. It also is likely that Closure-in-Place or Closure-by-Removal would involve movements to and from borrow areas to obtain cover material (soil, clay). For Closure-by-Removal, it would be necessary to fill in the depression or hole that is left when CCRs are removed unless it is possible to place the removed CCRs back into the hole after lining the bottom. It also may be possible to beneficially use some of the ash as cover material (structural fill) in lieu of using borrow material to close a dewatered CCR impoundment.

Public Participation

The public is invited to submit comments on the scope of this EIS no later than the date identified in the **DATES** section of this notice. After TVA prepares a draft of the EIS, TVA will release it for public comment. TVA anticipates holding public meetings near the plants where site-specific early closure actions are proposed after release of the draft EIS. Meeting details will be posted on TVA's Web site. The schedule for releasing the Draft EIS is December 2015 or January 2016.

Dated: August 19, 2015.

Wilbourne (Skip) C. Markham,

Director, Environmental Compliance.

[FR Doc. 2015–21217 Filed 8–26–15; 8:45 am]

BILLING CODE P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Third Meeting: RTCA Special Committee 233 (SC 233) Addressing Human Factors/Pilot Interface Issues for Avionics

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

ACTION: Third Meeting Notice of RTCA Special Committee 233.

SUMMARY: The FAA is issuing this notice to advise the public of the third meeting of the RTCA Special Committee 233.

DATES: The meeting will be held September 15th–17th from 8:00 a.m.–4:30 p.m.

ADDRESSES: The meeting will be held at RTCA Headquarters, 1150 18th Street NW., Suite 910, Washington, DC 20036, Tel: (202) 330–0662.

FOR FURTHER INFORMATION CONTACT: The RTCA Secretariat, 1150 18th Street NW., Suite 910, Washington, DC, 20036, or by telephone at (202) 833–9339, fax at (202) 833–9434, or Web site at *http://www.rtca.org* or Jennifer Iversen, Program Director, RTCA, Inc., *jiversen@rtca.org,* (202) 330–0662.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a) (2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., App.), notice is hereby given for a meeting of the RTCA Special Committee 233. The agenda will include the following:

Tuesday, September 15, 2015 (8:00 a.m.–4:30 p.m.)

1. Introduction, Upcoming PMC Dates, Minutes from Last Meeting
2. Rotorcraft Directorate Test Pilot Evaluations
3. Outline Discussion
4. Subcommittee Out-brief
5. Subcommittee Initial Breakout Session
6. Planning for Next Meeting

Wednesday, September 16, 2015 (8:00 a.m.–4:30 p.m.)

1. Subcommittee Breakout Sessions
2. Subcommittee Breakout Sessions
3. Subcommittee Out-brief

Thursday, September 17, 2015 (8:00 a.m.–2:00 p.m.)

1. Leadership Team Wrap-up/ Discussion on Outline Content
2. Subcommittee Assignments
3. Meeting Recap, Action Items, Key Dates

Attendance is open to the interested public but limited to space availability. With the approval of the chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on August 19, 2015.

Latasha Robinson,

Management & Program Analyst, Next Generation, Enterprise Support Services Division, Federal Aviation Administration.

[FR Doc. 2015–21184 Filed 8–26–15; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

[Docket No. FTA–2014–0025]

Notice of Buy America Waiver for Track Turnout Component

AGENCY: Federal Transit Administration, DOT.

ACTION: Notice of Buy America Waiver.

SUMMARY: In response to a Buy America waiver request from the Long Island Rail Road (LIRR), a subsidiary of the New York Metropolitan Transportation Authority (MTA), the Federal Transit Administration (FTA) hereby waives its Buy America requirements for the movable point frog component of one track turnout that LIRR needs for Stage 1.1 of its Jamaica Station Capacity Improvements Project, Phase I (JCI-Phase 1 Project). The turnout itself, however, is subject to FTA's Buy America requirements and, accordingly, the turnout must be manufactured in the United States.

This Buy America waiver does not apply to track turnout components for Stages 2.0.1, 2.0.2, 2.0.3, and any other stages of LIRR's JCI-Phase I Project, or for LIRR's State of Good Repair Program, as LIRR has withdrawn such waiver

requests through correspondence dated February 9, 2015, February 13, 2015, and June 25, 2015. Moreover, this Buy America waiver does not apply to track turnout components needed for the Northeast Corridor Congestion Relief Project at Harold Interlocking, for which the Federal Railroad Administration (FRA) granted a Buy America waiver on May 15, 2015, as FRA funds are being used for that project.

DATES: This waiver is effective immediately.

FOR FURTHER INFORMATION CONTACT: Richard L. Wong, FTA Attorney-Advisor, at (202) 366–4011 or *Richard.Wong@dot.gov.*

SUPPLEMENTARY INFORMATION: The purpose of this notice is to announce that FTA is granting a non-availability Buy America waiver for the movable point frog component (also known and referred to as a ''vee point'') on one track turnout that LIRR needs for Stage 1.1 of LIRR's JCI-Phase I Project.

FTA is providing LIRR with Federal funds to support its JCI-Phase I Project, the total cost of which is approximately $301,653,240. With certain exceptions, FTA's Buy America requirements prevent FTA from obligating Federal funds for a project unless ''the steel, iron, and manufactured goods used in the project are produced in the United States.'' 49 U.S.C. 5323(j)(1) (2012). All ''manufactured end products'' must be produced in the United States, and FTA considers a manufactured product to be produced in the United States if: (1) All of the manufacturing processes for the product take place in the United States, and (2) all of the components of the product are of U.S. origin. 49 CFR 661.5(d) (2014). FTA considers a component to be of U.S. origin if it is manufactured in the United States, regardless of the origin of its subcomponents. 49 CFR 661.5(d)(2). If, however, FTA determines that ''the steel, iron, and goods produced in the United States are not produced in a sufficient and reasonably available amount or are not of a satisfactory quality,'' then FTA may issue a non-availability waiver of these requirements. 49 U.S.C. 5323(j)(2)(B); 49 CFR 661.7(c).

Through the JCI-Phase I Project, LIRR will reconfigure its tracks in Jamaica Station, construct a new passenger platform to facilitate LIRR service to Atlantic Terminal, and increase capacity for LIRR train service into the new Grand Central Terminal following completion of the East Side Access Project. Currently, Jamaica Station is one of the busiest stations in LIRR's system, with over 250,000 customers and 500 trains passing through the station each weekday. Phase 1 of the project is divided into Stages 1 and 2.

The scope of work for the project involves the installation of new track turnouts. In June 2013, LIRR issued a solicitation for two turnouts containing rail bound magnesium frogs in connection with Stage 1 of the JCI-Phase I Project. On May 16, 2014, LIRR awarded Contract Number 6121 to Picone Schiavone II, which certified its compliance with FTA's Buy America requirements for the track turnouts. Following the award, LIRR determined that these turnouts would be insufficient to meet LIRR's operational needs. Accordingly, LIRR revised its specifications for the project to include two turnouts with movable point frogs, which is the component type that is the subject of this waiver.

The movable point frogs are essential components of track turnouts, and LIRR indicated that it needs them for the following operational reasons: (1) They are necessary to withstand the frequent and heavy use by passenger and freight trains traveling along LIRR's right of way; (2) they allow trains to travel through the turnouts at higher speeds, ultimately providing more throughput during rush hour; (3) they reduce impact loading to the turnouts; and (4) they provide for less wear and tear, thereby requiring less overall maintenance, extending the useful lives of the turnouts, and resulting in fewer outages and negative impacts on LIRR's operations. Picone Schiavone II advised LIRR that it was unable to certify compliance with FTA's Buy America requirements based upon LIRR's new specifications requiring movable point frogs as components of the track turnouts.

By letter dated September 19, 2014, LIRR requested a non-availability Buy America waiver for four components that LIRR needs for ten track turnouts on Stages 1.1, 2.0.1, 2.0.2, and 2.0.3 of its JCI-Phase I Project. Those four components are the Schwihag roller assemblies, Schwihag plates, ZU1–60 steel switch point rail sections, and the movable point frogs. At the time that LIRR submitted its waiver request, none of these turnout components were manufactured in the United States. The roller assemblies and plates were manufactured in Switzerland, the ZU1–60 steel switch point rail sections were manufactured in Austria, and the movable point frogs were manufactured in Germany.

Based on previous solicitations, LIRR concluded that it was unable to identify a domestic source for these four track turnout components. LIRR also pointed to market research and manufacturer outreach that it had conducted for a prior Buy America waiver request related to the East Side Access Project.[1] In conducting that research, LIRR utilized the National Railroad Passenger Corporation's (Amtrak) market research, which Amtrak had conducted at the request of FRA in connection with a separate Buy America waiver request. This research included outreach to manufacturers that were previously identified by the U.S. Department of Commerce's National Institute of Standards and Technology (NIST) in a December 2012 Supplier Scouting Report. LIRR's market research indicated that there was no known company presently manufacturing, or able to domestically manufacture, the Schwihag roller assemblies, Schwihag plates, ZU1–60 steel switch point rail sections, and movable point frogs. LIRR also contacted seven additional potential manufacturers, none of whom were willing and capable of domestically producing these components.

Given LIRR's extensive market research, on December 19, 2014 FTA published a **Federal Register** notice requesting comment on LIRR's waiver request pursuant to 49 CFR 661.7. 79 FR 75857. The docket closed on January 20, 2015, and to date, FTA has received no comments regarding the notice.

After the docket closed, by letter dated February 13, 2015, LIRR indicated to FTA that it had become aware of alternate turnout designs that would be compatible with LIRR's infrastructure and available from a domestic manufacturer. LIRR indicated its intention to use this alternate turnout design for its programs and projects, including the JCI-Phase I Project. LIRR specified that the alternate turnout design required modification to meet LIRR's operational requirements and to ensure adequate performance and reliability, considering that over 250,000 customers and 500 trains pass through Jamaica Station each weekday.

Given the alternate design and the potential availability of the turnout components from a domestic manufacturer, LIRR narrowed its waiver request from the ten turnouts needed for Stages 1.1, 2.0.1, 2.0.2, and 2.0.3, to only two turnouts needed for Stage 1.1.

[1] On February 18, 2015, FTA published a **Federal Register** notice waiving its Buy America requirements for the Schwihag roller assemblies, Schwihag plates, ZU1–60 steel switch point rail sections, and movable point frogs that LIRR needed in connection with nine turnouts for VHL03 LIRR Stage 3 of the East Side Access Project and one turnout for VHL04 LIRR Stage 4. 80 FR 8753.

LIRR indicated that it needs the waiver for Stage 1.1 because the procurement of the turnouts in that stage is on a critical path. LIRR calculated that, absent a non-availability waiver for the components of these two turnouts, LIRR's JCI-Phase I Project would be delayed by approximately one year, based on the extended lead times for design modifications, fabrication, and delivery of the alternate turnout design. LIRR withdrew its waiver request with respect to the components of eight turnouts needed for Stages 2.0.1, 2.0.2, and 2.0.3 because the procurement of those turnouts is not on a critical path and LIRR believes that it has enough time to design, fabricate, manufacture, deliver, and install the domestic alternates without causing delays to those stages of the project.

Following LIRR's letter dated February 13, 2015, LIRR engaged in additional efforts to utilize domestic manufacturers for the project. By electronic mail dated June 25, 2015, LIRR further narrowed its waiver request to apply to only one turnout needed for Stage 1.1 of its JCI-Phase I Project. LIRR also withdrew its request for a Buy America waiver with respect to the Schwihag roller assemblies, Schwihag plates, and the ZU1–60 steel switch point rail sections for that turnout. LIRR determined that, based on the project's redesign, LIRR could use domestically manufactured components as alternatives. LIRR limited its waiver request to just the movable point frog needed for a single turnout in Stage 1.1.

Based upon LIRR's good faith efforts to identify domestic manufacturers for the turnout components and redesign the project, LIRR's informed conclusion that there are presently no U.S. manufacturers that are willing and capable of producing the movable point frog critically needed for the project, and the lack of responses to FTA's **Federal Register** notice, FTA hereby issues a non-availability waiver to LIRR, pursuant to 49 CFR 661.7(c), for the movable point frog component needed for one turnout in Stage 1.1 of the JCI-Phase I Project. This waiver does not apply to the turnout itself, and accordingly, the turnout must be manufactured in the United States pursuant to FTA's Buy America requirements.

This Buy America waiver does not apply to track turnout components for Stages 2.0.1, 2.0.2, 2.0.3, and any other stages of LIRR's JCI-Phase I Project, or for LIRR's State of Good Repair Program, as LIRR has withdrawn such waiver requests. Furthermore, this Buy America waiver does not apply to track turnout components needed for the Northeast Corridor Congestion Relief Project at Harold Interlocking, for which FRA granted a Buy America waiver on May 15, 2015, as FRA funds are being used for that project.

Issued on August 21, 2015.

Dana Nifosi,

Acting Chief Counsel.

[FR Doc. 2015–21220 Filed 8–26–15; 8:45 am]

BILLING CODE 4910–57–P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

FTA Supplemental Fiscal Year 2015 Apportionments, Allocations, and Program Information

AGENCY: Federal Transit Administration (FTA), U.S. Department of Transportation.

ACTION: Notice.

SUMMARY: The Federal Transit Administration (FTA) annually publishes one or more notices to apportion funds appropriated by law. This notice is the third notice which announces the remaining apportionment for programs funded with fiscal year (FY) 2015 contract authority.

FOR FURTHER INFORMATION CONTACT: For general information about this notice contact Kimberly Sledge, Director, Office of Transit Programs, at (202) 366–2053. Please contact the appropriate FTA regional office for any specific requests for information or technical assistance. A list of FTA regional offices and contact information is available on the FTA Web site at *http://www.fta.dot.gov.*

I. Overview

The FTA's public transportation assistance program authorization, the Moving Ahead for Progress in the 21st Century Act (MAP–21), expired September 30, 2014. Since that time, Congress has enacted short-term extensions allowing FTA to continue its current programs. The most recent extension, the Highway and Transportation Funding Act of 2015, Public Law 114–41, (July 31, 2015), continues MAP–21 through October 29, 2015. This extension allows FTA to make available contract authority for transit assistance programs through September 30, 2015.

The FTA's full-year appropriations, the Consolidated and Further Continuing Appropriations Act, 2015, Public Law 113–235 (Dec. 16, 2014), hereinafter ''Appropriations Act, 2015'' was enacted in December 2014, giving FTA appropriated resources for FY 2015 for Administrative Expenses, Capital Investment Grants (CIG), Research and Technical Assistance and Training programs, and Grants to the Washington Metropolitan Area Transportation Authority. The Appropriations Act, 2015 also provides a full fiscal year obligation limitation of $8,595,000,000 of contract authority for FTA programs funded from the Mass Transit Account of the Highway Trust Fund during this fiscal year.

On July 23, 2015, FTA published an apportionments notice that apportioned approximately 10/12ths of the FY 2015 authorized contract authority among potential program recipients based on contract authority that was available from June 1, 2015 through July 31, 2015 (80 FR 141). That notice also provided relevant information about the FY 2015 funding available and end-of-year grant management and application procedures. A copy of that notice and accompanying tables can be found on the FTA Web site at *http://www.fta.dot.gov/apportionments.*

This document provides notice to stakeholders that FTA is apportioning the full-year FY 2015 authorized contract authority—October 1, 2014 through September 30, 2015—among potential program recipients according to statutory formulas in 49 U.S.C. Chapter 53. This document also allocates most of the remaining CIG funding to projects with existing Full Funding Agreements (FFGA) or projects recommended to receive an FFGA. The FTA has posted tables displaying the funds available to eligible states and urbanized areas on FTA's Web site at *http://www.fta.dot.gov/apportionments.*

The formula apportionment tables that allocate the full year of FY 2015 appropriated funds can be found at *http://www.fta.dot.gov/apportionments.* In addition, the National Transit Database (NTD) and Census Data used in the funding formulas can be found at *http://www.fta.dot.gov/apportionments.*

II. Grant Management and Application Procedures

A. The Transportation Electronic Awards Management (TEAM) system will close on Friday, September 25, 2015. Grants and cooperative agreements must have all applicable assurances and certifications completed so that funds can be awarded by the deadline. Funding that has not been awarded in an application by September 25, 2015 will not be migrated into the new FTA financial system, TrAMS. Instead, these applications will need to be re-created when TrAMS deploys in FY 2016. This applies to new

applications as well as amendments to existing awards.

B. Recipients of open American Recovery and Reinvestment Act (ARRA) grants should be aware that, as a matter of law, all remaining ARRA funds MUST be disbursed from grants by the end of the 5th fiscal year (FY) after funds were required to be obligated. (See 31 U.S.C. 1552.) For FTA ARRA projects, that requirement takes affect at the end of FY 2015. Accordingly, once FTA's ECHO grant payment system closes for disbursement payments on September 25, 2015, all remaining unliquidated funds within FTA ARRA funded grants will no longer be available to the grantee, will be deobligated from the grant, and returned to the U.S. Department of the Treasury. Even if a grantee has incurred costs or disbursed funds prior to the close of ECHO, if the grantee has not actually drawn down the funds by 2:00 p.m. EDT on September 25, 2015 FTA would be unable to reimburse the grantee. Therefore, grantees with open ARRA grants must ensure project activities are completed and all funds are drawdown by 2:00 p.m. EDT on September 25, 2015. For ARRA TIGER I projects, the same requirement will be in effect for the end of FY 2016.

Therese W. McMillan,

Acting Administrator.

[FR Doc. 2015–21242 Filed 8–26–15; 8:45 am]

BILLING CODE P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

[Docket No. PHMSA–2014–0092]

Pipeline Safety: Request for Revision of a Previously Approved Information Collection: National Pipeline Mapping System Program (OMB Control No. 2137–0596)

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

ACTION: Notice of public meeting and request for comments.

SUMMARY: PHMSA invites public comments on our intention to request the Office of Management and Budget's (OMB) approval to revise this information collection. On July 30, 2014, (79 FR 44246) PHMSA published a notice and request for comments in the **Federal Register** titled: ''Pipeline Safety: Request for Revision of a Previously Approved Information Collection: National Pipeline Mapping System (NPMS) Program (OMB Control No. 2137–0596)'' seeking comments on proposed changes to the NPMS data collection. During the comment period, PHMSA received several comments and suggestions on ways to improve this data collection. We are publishing this notice to address the many comments received and to request additional comments on PHMSA's proposed path forward. We are required to publish this notice in the **Federal Register** by the Paperwork Reduction Act of 1995, Public Law 104–13.

DATES: A public meeting to discuss the revisions to the NPMS will be held on the afternoon of September 10, 2015.

Written comments on this information collection should be submitted by October 26, 2015.

ADDRESSES: The public meeting will be held at the Crystal City Marriott located at 1999 Jefferson Davis Highway in Arlington, Virginia. Details regarding the meeting can be found at *https://primis.phmsa.dot.gov/meetings/MtgHome.mtg?mtg=106*.

You may submit written comments identified by Docket No. PHMSA–2014–0092 through one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov*. Follow the online instructions for submitting comments.
- *Fax:* 1–202–493–2251
- *Mail or Hand Delivery:* Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.
- *Instructions:* Identify the docket number PHMSA–2014–0092 at the beginning of your comments. Note that all comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. You should know that anyone is able to search the electronic form of all comments received in any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). Therefore, you may want to review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477), or visit *http://www.regulations.gov* before submitting any such comments.
- *Docket:* For access to the docket or to read background documents or comments, go to *http://www.regulations.gov* at any time or to Room W12–140 on the ground level of DOT's West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. If you wish to receive confirmation of receipt of your written comments, please include a self-addressed, stamped postcard with the following statement: ''Comments on PHMSA–2014–0092.'' The Docket Clerk will date stamp the postcard prior to returning it to you via the U.S. mail. Please note that due to delays in the delivery of U.S. mail to Federal offices in Washington, DC, we recommend that persons consider an alternative method (Internet, fax, or professional delivery service) of submitting comments to the docket and ensuring their timely receipt at DOT.

FOR FURTHER INFORMATION CONTACT: Amy Nelson, GIS Manager, Program Development Division, U.S. Department of Transportation, 1200 New Jersey Avenue SE., Washington, DC 20590, by phone at 202–493–0591, or email at *amy.nelson@dot.gov*.

SUPPLEMENTARY INFORMATION:

I. Background
II. Dropped Attributes
  A. Installation Method if Pipe Segment Crosses Water Body Which is 100 Feet in Width or Greater
  B. Year of Last Direct Assessment
  C. Type of Leak Detection
  D. Special Permit Segment and Permit Number
  E. Offshore Gas Gathering Line (Y/N)
  F. Average Daily Throughput
  G. Refineries
  H. Gas Processing and Treatment Plants
III. Kept Attributes
  A. Positional Accuracy (changed from previous 60-day notice)
  B. Pipe Diameter
  C. Wall Thickness
  D. Commodity Detail
  E. Pipe Material
  F. Pipe Grade
  G. Pipe Join Method
  H. Highest Percent Operating SMYS
  I. Maximum Allowable Operating Pressure/Maximum Operating Pressure
  J. Seam Type
  K. Year or Decade of Installation
  L. Onshore/Offshore
  M. Inline Inspection
  N. Class Location
  O. Gas HCA Segment
  P. Segment Could Affect an HCA
  Q. Year of Last ILI
  R. Coated/Uncoated and Cathodic Protection
  S. Type of Coating
  T. FRP Control Number and Sequence Number, if Applicable
  U. Year and Pressure of Last and Original Pressure Test
  V. Abandoned Pipelines
  W. Pump and Compressor Stations
  X. Mainline Block Valves
  Y. Gas Storage Fields
  Z. Breakout Tanks

AA. LNG Attributes
IV. General Comments
A. Reporting
B. Burden
C. Legality
D. Data Security
E. INGAA Counter-Proposal
F. Definitions
V. Timeline for Collection of New Data Elements
VI. Summary of Impacted Collection

I. Background

On July 30, 2014, (79 FR 44246) PHMSA published a notice and request for comments in the **Federal Register** titled: ''Pipeline Safety: Request for Revision of a Previously Approved Information Collection: National Pipeline Mapping System (NPMS) Program (OMB Control No. 2137–0596)'' seeking comments on proposed changes to the NPMS data collection. Within this notice, PHMSA laid out its intentions to revise the currently approved NPMS data collection to expand the data attributes collected and to improve the positional accuracy of NPMS submissions. On November 17, 2014, PHMSA held a public meeting to grant the public an opportunity to learn more about PHMSA's proposal, to ask pertinent questions about the collection, and to offer suggestions regarding the path forward. Details about the meeting, including copies of the meeting's presentation files, can be found at *http://primis.phmsa.dot.gov/meetings/MtgHome.mtg?mtg=101.* PHMSA encouraged participants of the meeting to submit comments on the proposed attributes to docket PHMSA–2014–0092. During the 60-day comment period, PHMSA received input from 28 different commenters comprised of pipeline operators, industry and interest groups, and the general public. Commenters include:

Ameren Illinois
Ameren Missouri
American Fuel & Petrochemical Manufacturers
American Gas Association
Anonymous
APGA via John Erickson
CenterPoint Energy
Chuck Lesniak
COGENT
Consumers Energy Company
Dan Ferguson for Enbridge Pipelines
INGAA
Intermountain Gas Company
MidAmerican Energy Company
Northern Natural Gas
Pipeline Safety Trust
Questar Gas Company
Questar Pipeline Company
Rodney Begnaud
Southwest Gas Corporation
Spectra Energy Partners
Texas Pipeline Association
Vectren

PHMSA is publishing this notice to address and respond to the comments received. Please note that technical details pertaining to the new data elements such as domains and reporting requirements for each attribute can be found in the NPMS Operator Standards Manual.

The data being requested is the first substantial update to NPMS submission requirements since the NPMS standards were developed in 1998. The NPMS is PHMSA's only dataset which tracks *where* pipe characteristics occur, instead of how much/how many of those characteristics are in PHMSA's regulated pipelines. In PHMSA's last Congressional reauthorization, Section 60132(a) stated that PHMSA has the power to collect ''any other geospatial or technical data, including design and material specifications, which the Secretary determines are necessary to carry out the purposes of this section. The Secretary shall give reasonable notice to operators that the data are being requested.'' The National Transportation Safety Board (NTSB) recommendation P–11–8 states that PHMSA should ''require operators of natural gas transmission and distribution pipelines and hazardous liquid pipelines to provide system-specific information about their pipeline systems to the emergency response agencies of the communities and jurisdictions in which those pipelines are located. This information should include pipe diameter, operating pressure, product transported, and potential impact radius.'' Other NTSB recommendations are cited below with the attributes they address.

Specifically, the new data elements will:

- Aid the industry and all levels of government, from Federal to municipal, in promoting public awareness of hazardous liquid and gas pipelines and in improving emergency responder outreach. Currently, 787 Federal officials, 1,208 state officials and 4,791 county officials have access to the online mapping application. Providing these officials with an improved NPMS containing system-specific information about local pipeline facilities can help ensure emergency response agencies and communities are better prepared and can better execute response operations during incidents.
- Permit more powerful and accurate tabular and geospatial analysis, which will strengthen PHMSA's ability to evaluate existing and proposed regulations as well as operator programs and/or procedures.
- Strengthen the effectiveness of PHMSA's risk rankings and evaluations, which are used as a factor in determining pipeline inspection priority and frequency.
- Allow for more effective assistance to emergency responders by providing them with a more reliable, complete dataset of pipelines and facilities.
- Provide better support to PHMSA's inspectors by providing more accurate pipeline locations and additional pipeline-related geospatial data that can be linked to tabular data in PHMSA's inspection database.
- Better support PHMSA's research and development programs by helping to predict the impact of new technology on regulated pipelines.

II. Dropped Attributes

PHMSA received wide-ranging comments that provided various points of view on the proposed attributes and the effect the collection of this data would have on the Pipeline Safety program, the pipeline industry, and the general public. After much research and consideration, PHMSA has decided not to move forward with the following attributes at this time. PHMSA reserves the right to reconsider including these attributes in the future.

A. Installation Method if Pipe Segment Crosses Water Body Which is 100 Feet in Width or Greater

PHMSA originally proposed that operators submit data on the installation method of pipe segments that cross bodies of water greater than 100 feet in width. Operators would have selected from options such as open cut, trenchless technologies, pipe spans, etc. The Pipeline Safety Trust and COGENT supported including this information as originally proposed. Energy Transfer Partners submitted comments indicating a willingness to provide this information but noted that for many lines this information may not exist. The American Gas Association (AGA), the Texas Pipeline Association (TPA), TransCanada, InterMountain Energy Company, and the American Petroleum Institute commenting jointly with Association of Oil Pipelines (API/AOPL) noted that the installation method does not provide a reliable estimate for the depth of cover. Spectra Energy Partners and Vectren submitted comments suggesting that this attribute would not be useful for risk assessments. Avista commented that they did not possess this information within their Geographic Information Systems (GIS) infrastructure. PHMSA has decided not to move forward with including this attribute in the NPMS at this time.

B. Year of Last Direct Assessment

PHMSA originally proposed to collect the year and type of last direct assessment, as it is used to verify the integrity of the pipeline and is used in pipeline risk calculations. Comments received from the Pipeline Safety Trust supported including this attribute while those from TransCanada, Vectren, Energy Transfer, TPA, and AGA were opposed. PHMSA has determined that the year and type of the last Inline Inspection Instrument (ILI) assessment and last pressure test were most valuable for integrity evaluation. Further, PHMSA determined that the data regarding which lines have been subject to direct assessment can be deduced. As a result, PHMSA has decided not to move forward with this attribute at this time.

C. Type of Leak Detection

PHMSA proposed that operators submit information on the type of leak detection system used. Comments submitted by the Pipeline Safety Trust and COGENT supported including the attribute. The American Petroleum Institute, commenting jointly with Association of Oil Pipelines (API/AOPL), did not oppose including this attribute. However, API/AOPL requested delayed compliance as part of a three-phase implementation and that PHMSA include the option to submit more than one type of leak detection technology. The remaining comments from TransCanada, Spectra Energy Partners, Vectren, Energy Transfer Partners, Energy Transfer, DTE Gas Company, TPA, and AGA were critical of including this attribute. These comments focused primarily on the lack of a perceived safety or risk benefit for knowing what leak detection technologies were in place. InterMountain Gas Company and Avista noted that they did not have this information on a geospatial level within their GIS infrastructure. PHMSA has decided not to move forward with including this attribute in the NPMS at this time.

D. Special Permit Segment and Permit Number

PHMSA proposed that operators denote whether a pipe segment is part of a PHMSA special permit and report the special permit number. PHMSA received comments from COGENT and Spectra Energy Transfer supporting including this attribute as well as critical comments from API/AOPL, TPA, Energy Transfer, and TransCanada. Those opposed argued that since PHMSA issues special permits, requiring operators to submit this information would be duplicative. At this time PHMSA believes it would be better to collect this information via inspections or the special permitting and reporting process itself rather than in this revision to the NPMS.

E. Offshore Gas Gathering Line (Y/N)

PHMSA proposed that operators of offshore gas gathering pipelines make NPMS data submissions. PHMSA received comments from COGENT and Energy Transfer Partners, whom were not opposed to including this attribute to NPMS. COGENT requested all onshore gathering lines be required to submit data to NPMS. TPA submitted comments claiming that this attribute would create a new class of pipelines and is therefore not an appropriate action for an information collection revision. PHMSA has decided not to move forward with including this attribute in the NPMS at this time.

F. Average Daily Throughput

Throughput is used to denote a pipeline's capacity by stating the pipeline's ability to flow a measured amount of product per unit of time. PHMSA received a positive comment from COGENT supporting the inclusion of this attribute in the NPMS. PHMSA received comments from 13 major industry trade associations and operators strongly opposed to collecting this attribute. Those opposed primarily argued that this attribute exceeds PHMSA's regulatory authority, and that the data requested poses a security and commercial risk. AGA, TPA, Avista, Spectra Energy Partners, and InterMountain Gas Company further noted that this information is difficult to measure, collect, and report due to constant fluctuations in market forces and pipeline flow. American Fuel and Petrochemical Manufacturers, TPA, and InterMountain questioned the risk assessment and emergency response value of collecting this information. PHMSA has decided not to proceed with this attribute as proposed, due to potential jurisdictional conflict with the Department of Energy.

G. Refineries

PHMSA proposes liquid pipeline operators submit a geospatial point file containing the locations of refineries. PHMSA received a comment from COGENT in support of including this attribute and another comment from Energy Transfer indicating a willingness to provide this information. Critical comments from AFPM, Spectra Energy Partners, API/AOPL, TPA, and AGA strongly opposed the inclusion of this attribute. These groups primarily claimed that these facilities are outside of PHMSA's regulatory jurisdiction and that pipeline operators do not control them. Due to potential jurisdictional issues, PHMSA is not moving forward with this attribute for this revision to the NPMS.

H. Gas Processing and Treatment Plants

PHMSA proposes gas transmission operators submit a geospatial point file containing the locations of gas process/treatment plants. PHMSA received a comment from COGENT in support of including this attribute and another comment from Energy Transfer indicating a willingness to provide this information. Critical comments from AFPM,1 0474147Spectra Energy Partners, API/AOPL, TPA, and AGA strongly opposed the inclusion of this attribute. These groups claimed these facilities are outside of PHMSA's regulatory jurisdiction and that pipeline operators do not control them. Due to potential jurisdictional issues, PHMSA is not moving forward with this attribute for this revision to the NPMS.

III. Retained Attributes

After careful consideration of the comments received, along with the agency's Pipeline Safety goals, PHMSA has decided to move forward with the proposal to collect geospatial data on the following pipeline attributes:

A. Positional Accuracy

PHMSA originally proposed that for pipeline segments located within Class 3, Class 4, High Consequence Areas (HCA), or ''could affect'' High Consequence Areas (HCAs), operators submit data to the NPMS with a positional accuracy of five feet. PHMSA further proposed that for all pipeline segments located within Class 1 or Class 2 locations, operators submit data to the NPMS with a positional accuracy of 50 feet.

PHMSA received 24 comments on positional accuracy. COGENT's comments supported the original proposal of five foot positional accuracy. The Pipeline Safety Trust echoed this support, and noted many states already require more stringent accuracy standards though did not cite a specific figure. PHMSA received a number of comments from industry associations and operators which recognized the need for improved positional accuracy, but were highly critical of the five foot positional accuracy standard. Commenters noted that the vast majority of mileage was not mapped to this level of precision, and that some portions of this mileage may

be impossible to survey to the requested accuracy. API/AOPL's comment suggested a positional accuracy of fifty feet would be reasonable, while INGAA proposed requiring fifty foot accuracy in 70% of mileage and 100 foot elsewhere. INGAA's comments were supported by AGA, Questar, DTE Gas Company, Energy Transfer, Spectra Energy Partners, a representative of Enbridge, and Questar Pipeline. These operators proposed requiring fifty-foot accuracy in 70% of mileage and 100-foot elsewhere. TransCanada suggested a positional accuracy of 100-foot was sufficient. Texas Pipeline Association commented that the average positional accuracy reported by its members was 200-foot. MidAmerican, APGA, SW Gas, and Avista noted that the current requirement reflects the technical capability of their GIS data and the Gas Producers Association stated that several hundred feet was sufficient for emergency response and planning.

PHMSA proposes that hazardous liquid pipeline operators submit data with a positional accuracy of ± 50 feet. Gas transmission operators are required to submit data at ± 50 feet accuracy for all segments which are in a Class 2, Class 3, or Class 4 area; are within a HCA or have one or more buildings intended for human occupancy; an identified site (See 49 CFR 192.903); a right-of-way for a designated interstate; freeway, expressway, or other principal 4-lane arterial roadway as defined in the Federal Highway Administration's ''Highway Functional Classification Concepts'' within its potential impact radius. All other gas pipeline segments must be mapped to a positional accuracy of ± 100 feet. PHMSA concedes that ± five feet may be unobtainable for certain locations and is difficult to maintain when GIS data is reprojected as part of its processing, but reiterates its need for a high level of positional accuracy. Any accuracy standard coarser than 100 feet would not achieve the level of detail required to make basic estimates of where a pipeline is located with relation to communities, infrastructure, and landmarks. These risk-based requirements require greater levels of stringency for locations with the highest potential consequences of pipeline incidents, while reducing the data collection burden for remote pipelines. These revisions to the positional accuracy requirements help satisfy the recommendations issued in NTSB recommendations P–15–4, ''Increase the positional accuracy of pipeline centerlines and pipeline attribute details relevant to safety in the National Pipeline Mapping System.'' Additionally, PHMSA needs to improve its ability to identify pipe segments which cross water. Many recent pipeline accidents, such as the Yellowstone River accident earlier this year, have occurred at or near water crossings. Pipeline right-of-ways frequently run alongside water bodies and PHMSA requires better positional accuracy to determine whether a pipe is running alongside water or under the water body.

B. Pipe Diameter

PHMSA originally proposed requiring operators to submit data on the nominal diameter of a pipe segment. Knowing the diameter of a pipeline can help emergency responders determine the impact area of a pipeline in the event of a release. This attribute also gives PHMSA the opportunity to gain a broader understanding of the diameters of pipe being operated in any given geographical region, and to further assess potential impacts to public safety and the environment.

PHMSA received eleven comments in support of including mandatory reporting of pipe diameter in the revised information collection. This included industry associations, public interest groups, and individual operators. Most concerns centered on clarification regarding whether PHMSA was requesting nominal or actual diameter. Those commentators included Questar, TransCanada, Spectra, SW Gas, PST, COGENT, INGAA, API, TPA, and AGA. Energy Transfer was critical of the safety benefit of incorporating this attribute, but was willing to provide the information.

PHMSA proposes to move forward with this attribute as originally proposed. This attribute measures the nominal pipe diameter in inches to three decimal places. The primary benefit for incorporating this attribute is that a larger pipe may pose a greater hazard during a rupture. Knowing the location of large lines in relation to populated areas will help PHMSA effectively prioritize inspections and emergency response planning.

C. Wall Thickness

PHMSA originally proposed to collect data on the nominal wall thickness of a pipe. PHMSA intends to collect this information as originally proposed. The Pipeline Safety Trust and COGENT supported collecting this information as proposed. API/AOPL submitted comments expressing a willingness to collect this information but requested clarifications of PHMSA's expectation and that this requirement be phased in over time. Energy Transfer requested clarification on whether this attribute would be reported on a predominate basis. AGA commented that an attribute indicating whether a pipeline was operating above 30% SMYS would capture most rupture risk. TPA and Vectren submitted comments arguing that this attribute is not a necessary risk measure if percentage of SMYS is measured. Spectra Energy Partners commented that many interstate gas lines have many changes in wall thickness; therefore, capturing this information on an actual basis would greatly increase segmentation of the data. PHMSA intends to collect this information as originally proposed. For clarification, PHMSA is requesting the nominal wall thickness. This information will not be collected on a predominant basis. PHMSA analysts and inspectors identified this as a fundamental piece of descriptive information for pipeline risk. This information is especially critical for determining the relative risk of corrosion.

D. Commodity Detail

PHMSA proposed operators submit commodity details for pipelines if the transported commodity is crude oil, product or natural gas, and subcategories of each. The list of commodity choices is available in the NPMS Operator Standards Manual (Appendix A). Other choices may be added as the need arises.

The Pipeline Safety Trust, COGENT INGAA, AGA, Questar Pipeline Company, Spectra Energy Partners, Energy Transfer Partners, and Southwest Gas supported including this attribute. Energy Transfer requested clarification, and API/AOPL and TransCanada supported a more limited version of this attribute as the commodity in hazardous liquid lines can change day to day.

PHMSA will move forward with this collection with minor modifications from the original proposal. Please see the NPMS Operator Standards Manual for more detailed information on how this information is to be reported. This level of detail is required because of potential differences in leak characteristics, rupture-impacted hazardous areas and a pipeline's internal integrity. Emergency responders will also be able to better respond to pipeline incidents if they know the specific type of commodity being transported.

E. Pipe Material

PHMSA originally proposed that operators submit data on pipe material.

Operators will be required to submit data on whether a segment was constructed out of cast iron, plastic, steel, composite, or other material. PHMSA received no opposition from commentators. PHMSA proposes to move forward with this collection as originally introduced. Knowing the pipe material helps PHMSA determine the level of potential risk from excavation damage and external environmental loads. These can also be factors in emergency response planning.

F. Pipe Grade

PHMSA originally proposed that operators submit information on the predominant pipe grade of a pipeline segment. The Pipeline Safety Trust supported including this attribute and API did not oppose its collection. AGA, TPA, and an operator believed this attribute was redundant because percentage of SMYS captured the risk from pipe grade. TransCanada and Vectren had concerns about reporting this attribute on a ''predominant'' basis. Energy Transfer Partners were willing to provide the data but believed the data format noted is insufficient. This information is essential in issues regarding pipe integrity, and is a necessary component in determining the allowable operating pressure of a pipeline. The list of pipe grades is available in the NPMS Operator Standards (Appendix A).

G. Pipe Join Method

PHMSA proposed operators submit data on the pipe join method. Operators will indicate whether pipes within the segment were welded, coupled, screwed, flanged, used plastic pipe joints, or other.

COGENT and the Pipeline Safety Trust submitted comments supporting including this information. Spectra Energy Partners and Energy Transfer Partners submitted comments opposed to incorporating this attribute on a joint-by-joint basis, though Energy Transfer Partners was receptive to reporting this information on a predominant basis. TPA, TransCanada, and Vectren submitted comments critical of the value of this attribute for risk assessment. InterMountain, MidAmerican, and Avista noted that they did not have this information in their mapping systems, and AGA and API/AOPL noted that it would be burdensome for many operators to collect and record this information. Energy Transfer Partners commented that this information is on the annual reports. PHMSA analysts and inspectors would use this information to identify high-risk joining methods and will be used in PHMSA's risk rankings and evaluations. These models are used to determine pipeline inspection priority and frequency.

H. Highest Percent Operating SMYS

PHMSA proposes operators submit information pertaining to the percent at which the pipeline is operating to SMYS. Specifically, operators would submit hoop stress corresponding to the maximum operating pressure (MOP) or maximum allowable operating pressure (MAOP) as a percentage of SMYS. PHMSA uses the established percent SMYS to determine low- and high-stress pipelines, class locations, test requirements, inspection intervals, and other requirements in the pipeline safety regulations.

AGA, API/AOPL, TPA, Vectren, and Southwest Gas raised concerns about securing this information. AGA, TPA, Intermountain, and DTE Gas Company further proposed that this attribute should be calculated based on Maximum Allowable Operating Pressure (MAOP) rather than highest observed operating pressure. AGA and a number of gas operators proposed to allow lines operating below 30 percent SMYS be categorized as ''low stress'' due to a purported low propensity to rupture. Spectra Energy Partners believed that MAOP was a better measure of pipeline risk and that PHMSA could calculate either from other attributes submitted via NPMS. API further suggested that this should be a ''phase 2'' action. PHMSA intends to move forward with this attribute as originally proposed. PHMSA uses the percentage of operating SMYS to determine low- and high-stress pipelines, class locations, test requirements, inspection intervals, and other requirements in the pipeline safety regulations. Percentage of SMYS is required for determining and confirming MAOP and Maximum Operating Pressure (MOP). This information also helps PHMSA to determine the regulations applicable to each pipe segment along with the probable toughness of the steel and a segment's likelihood of rupturing.

In order to safeguard this information, this information will only be available to individuals with access to the password protected Pipeline Information Management Mapping Application (PIMMA) site. PHMSA needs to collect both percent SMYS and MAOP because, though technically similar, they encapsulate different aspects of the potential risk to the public.

I. Maximum Allowable Operating Pressure or Maximum Operating Pressure (MAOP/MOP)

PHMSA proposed that operators submit the maximum MAOP or MOP for a pipeline segment in pounds per square inch gauge.

PHMSA received comments in support of including this attribute from COGENT, the Pipeline Safety Trust, TPA, Energy Transfer Partners, and Spectra Energy Partners. API, AFPM, AGA, Vectren and Southwest Gas submitted comments expressing security concerns. TPA, AGA, and Vectren suggested that this attribute is duplicative of and inferior to percent SMYS as a risk measure. TransCanada suggested replacing this attribute and others with one that indicates whether or not a line is operating below 30 percent SMYS. PHMSA intends to collect this information as previously proposed. While superficially similar to percent SMYS, MAOP/MOP is not identical and captures different elements of pipeline risk. Specifically, PHMSA inspectors identified it as an important element for incident analysis. MAOP/MOP helps enforce pressure levels between segments which are rated for different pressures. PHMSA engineers further noted that it is useful for determining the potential impact radius. This information will be limited to those with PIMMA access or PHMSA employees.

J. Seam Type

PHMSA proposed operators submit data on the seam type of each pipe segment. Options include: SM = Seamless, LERW = Low frequency or direct current electric resistance welded, HERW = High frequency electric resistance welded, DSAW = Double submerged arc weld, SAW = Submerged arc weld, EFW = Electric fusion weld, LW = Furnace lap weld, FBW = Furnace butt weld, PLAS = Plastic or OTHER = Other.

The Pipeline Safety Trust, COGENT, Southwest Gas supported including this attribute as proposed. Vectren, Energy Transfer, and DTE Gas Company noted that information may not always be available and PHMSA has not allowed an ''unknown'' option. AGA and TPA were opposed to collecting this information at this time as it may be part of a pending rulemaking. Spectra Energy Partners further noted that long interstate lines may have many changes in seam type. TransCanada commended that this was not as effective of a risk measure as some other pipeline characteristics.

PHMSA intends to collect this information with the possibility of limiting it to Classes 3, 4, and HCAs. This information is used to determine which type of integrity management inspection assessment should apply, is important for risk analysis due to certain time-dependent risky seam types (LF–ERW), and is used to confirm MAOP.

K. Decade of Installation

PHMSA originally proposed that operators submit data on the predominant year of original construction (or installation). The year of construction determines which regulations apply to a pipeline for enforcement purposes. The data requested pertained to the year of construction and not the year the pipe was manufactured. On the annual report, operators report the decade of installation. As a result of this revised collection, operators will be able to submit data on the predominant decade of construction or installation. Predominant is defined as 90 percent or higher of the pipe segment being submitted to the NPMS.

Comments from both public safety advocacy groups and pipeline operators were generally positive. AGA and TPA recommended defining this attribute as the year that the segment was placed in service. Vectren recommended defining this on a segment-by-segment basis rather than on a predominant basis. API suggested this be phase 2 in a 3 phase implementation and to allow operators to submit data by decade for lines installed before 1990. Southwest Gas had security concerns and TransCanada and Spectra Energy Partners submitted comments doubting the significance of year of construction on pipeline safety risk. TransCanada further noted that this information is already collected on annual reports.

Collecting this information geospatially rather than in tabular form in the annual reports allows PHMSA to run better risk-ranking algorithms through pattern analysis and relating pipe attributes to surrounding geographical areas. Identifying and protecting aging infrastructure is a DOT priority and collecting this information allows PHMSA to better understand and plan for age-dependent threats.

L. Onshore/Offshore

Onshore/Offshore: PHMSA proposes operators designate whether a pipe segment is onshore or offshore.

PHMSA received four comments on this attribute which were generally supportive. COGENT supported including this information as proposed. API/AOPL, Spectra Energy Partners, and Energy Transfer Partners were willing to provide this information but requested guidance on defining ''offshore pipelines'' for the purpose of this information collection. API/AOPL further recommended that this information be password protected under PIMMA.

PHMSA will move forward with this attribute as originally proposed. To aid compliance and standardization, PHMSA will issue guidance in the NPMS Operator Standards Manual on how to determine whether a pipeline is offshore or onshore for the purpose of this information collection. Comparisons between the NPMS (PHMSA-generated) offshore mileage statistics and operator-generated annual report offshore mileage statistics do not match. This collection will allow PHMSA to standardize and compare the statistics for regulatory purposes.

M. Inline Inspection

PHMSA originally proposed that operators indicate whether their system is capable of accommodating an ILI tool.

The Pipeline Safety Trust and COGENT strongly supported including this attribute, as did a number of industry entities including TransCanada, Spectra Energy Partners, and Energy Transfer. INGAA and Questar proposed a simplified yes/no version of this attribute. API and TPA were receptive to including this information but questioned the safety benefit. AGA and DTE Gas Company submitted critical comments citing difficulty of compliance given the ongoing technological development in pipeline assessment tools. InterMountain Gas Company and Avista noted that they did not have this information in their GIS infrastructure. Vectren noted their view that the information was not needed for risk ranking and was already on the annual report.

PHMSA intends to collect this information as originally proposed. For the purpose of this information collection, this attribute denotes whether a line is capable of accepting an inline inspection tool with currently available technology. Inline Inspection methods information is useful for tracking progress related to NTSB recommendations P–15–18 and P–15–20 which recommend that all natural gas transmission pipelines be capable of being in-line inspected and that PHMSA ''identify all operational complications that limit the use of in-line inspection tools in piggable pipelines'' respectively.

N. Class Location

Operators of gas transmission pipeline segments will be required to submit information on class location (49 CFR 192.5) at the segment level.

PHMSA received eight comments on this attribute which were generally positive. COGENT, Spectra Energy Partners, Southwest Gas, TPA, and AGA submitted comments supporting including this attribute. TransCanada opposed, stating that PHMSA can collect this information at audits and inspections. Avista indicated that they did not have this information within their GIS infrastructure. Spectra Energy Partners and Energy Transfer submitted comments requesting greater clarity and guidance on the definition of segments, as well as expectations for accuracy for the purpose of this collection.

PHMSA intends to collect this information as originally proposed. Operators may consult the NPMS Operator Standards Manual for help in defining segments. This information is a critical measure of population risk, and is necessary to ensure that integrity management rules are properly applied to high-risk areas. Survey requirements vary based on class location, and this data is valuable for prioritizing, planning, and conducting inspections.

O. Gas HCA Segment

PHMSA proposed gas transmission operators identify pipe segments which ''could affect'' HCAs as defined by 49 CFR 192.903.

AGA, INGAA, TPA, TransCanada, Energy Transfer, Questar Pipeline Company, and COGENT supported collecting data regarding Gas HCAs. AGA, Vectren, and Intermountain requested clarification on how ''could affect'' HCAs impact gas operators.

PHMSA intends to move forward with the HCA attributes as originally proposed. This information will help emergency responders identify areas with greater potential for significant damage. Additionally, these attributes identify areas subject to integrity management procedures. PHMSA has explicit statutory authority to map high-consequence areas under 49 U.S.C. 60132(d). Gas operators are only expected to submit information on whether that segment lies within an HCA as defined in 49 CFR 192.903.

P. Segment Could Affect an HCA

PHMSA proposed hazardous liquid and gas transmission operators identify pipe segments which could affect HCAs as defined by 49 CFR 195.450. Pipe segments can be classified as affecting a populated area, an ecologically sensitive

area, or a sole-source drinking water area.

TPA and COGENT supported including this information as proposed. API/AOPL, the American Fuel and Petrochemical Manufacturers, and TransCanada had security concerns with including this data element.

PHMSA intends to move forward with the ''could affect HCA'' attribute as originally proposed. This information will help emergency response planners identify areas with greater potential for significant damage. Additionally it identifies areas subject to integrity management procedures. PHMSA has explicit statutory authority to map high-consequence areas under 49 U.S.C. 60132(d), and NTSB recommendation P–15–5 states that PHMSA should ''revise the submission requirement to include HCA identification as an attribute data element to the National Pipeline Mapping System.'' This information will be secured with the PIMMA system to mitigate potential security risks.

Q. Year of Last ILI

PHMSA proposes operators submit data detailing the year of a pipeline's last corrosion, dent, crack or ''other'' ILI assessment. The Pipeline Safety Trust, COGENT, and API/AOPL supported including this attribute, though the latter suggested protecting this information with PIMMA and delaying compliance to Phase Two of their three-phase plan. INGAA, AGA, Spectra and Vectren questioned the safety value of including this attribute. Avista noted that they did not have this information in their GIS infrastructure.

PHMSA intends to move forward with this attribute as originally proposed. This information is used to verify integrity of the pipeline. It is also a key metric in PHMSA's pipeline risk calculations, which are used to determine the priority and frequency of inspections. Inspectors noted that this is important for inspection planning, as a line which has been recently assessed has a statistically lower risk than one that has not recently been assessed. This information will be protected by being placed in PIMMA.

R. Coated/Uncoated and Cathodic Protection

PHMSA proposed operators indicate whether a pipe is effectively coated, and if so the type of coating.

COGENT, Pipeline Safety Trust, TPA, TransCanada and Southwest Gas Company supported including this attribute. AGA, INGAA, API/AOPL, Questar Pipeline Company, and Spectra Energy Partners petitioned for a greatly simplified binary yes/no version of this attribute, possibly reported on a predominant basis. Intermountain and Avista indicated that they did not collect this information in their GIS infrastructure.

PHMSA intends to move forward with this attribute as proposed. The presence and type of coating on a pipeline has a significant impact on corrosion, which remains a major source of risk to both gas transmission and hazardous liquid pipelines.

S. Type of Coating

See previous section. The choices for type of coating (from the NPMS Operator Standards Manual) are: coal tar enamel, fusion bonded epoxy, asphalt, cold applied tape, polyolefin, extruded polyethylene, field-applied epoxy, paint, composite, other, and no coating.

T. FRP Control Number and Sequence Number, if Applicable

PHMSA proposed operators submit the Facility Response Plan control number and sequence number for applicable liquid pipeline segments.

COGENT, API/AOPL, Spectra Energy Partners, and Energy Transfer Partners were not opposed to collecting this information; API requested this information be protected by PIMMA. TransCanada viewed it as a potential security risk, and supported only including the plan number. AGA and TPA opposed this data element, suggesting that it is not needed for risk prioritization and is therefore not required.

PHMSA intends to move forward with this attribute as originally proposed. Access to the relevant facility response plan number through NPMS would be beneficial to first responders in an emergency situation, especially in areas with multiple pipeline facilities. Furthermore, this would greatly reduce the workload of regional offices and even operators tasked with ensuring compliance with response plan regulations. Since operators are required to have this information, PHMSA believes it should be minimally burdensome to submit it.

U. Year and Pressure of Last and Original Pressure Test

PHMSA proposed to collect data on a pipeline's original and most recent hydrostatic test years and pressures. Note that the original pressure test data will be collected in Phase 3 (see section V) and the last pressure test data will be collected in Phase 1. This is to allow operators sufficient time to research the year of the original pressure test. The NPMS Operator Standards Manual also contains a designation if the operator has researched, but not found, the year of the original pressure test.

The Pipeline Safety Trust, COGENT and Energy Transfer Partners supported including this attribute. API/AOPL, TPA, and AGA questioned the value of this attribute, especially the original pressure test, noting that it will greatly increase segmentation of the dataset. API further suggested dropping the original pressure test information. TransCanada, Spectra Energy Partners, and Vectren were all opposed to collecting this attribute. Avista noted that they did not have this information in their GIS infrastructure.

PHMSA intends to move forward with this attribute as originally proposed with slight modifications. PHMSA will allow the more flexible ''pressure test'' language in recognition of some alternative testing methodologies available to liquid operators. This information is critical for risk assessment. The time elapsed from the last hydrostatic test increases risk of failure.

V. Abandoned Pipelines

PHMSA proposed that all gas transmission and hazardous liquid pipelines abandoned after the effective date of this information collection be mandatory submissions to the NPMS. Abandoned lines are not currently required to be submitted to the NPMS. Operators would only need to submit this data in the calendar year after the abandonment occurs. API/AOPL, Energy Transfer Partners, and Dan Ferguson on behalf of Enbridge supported the inclusion of this attribute for newly abandoned lines only. The Pipeline Safety Trust noted that the definition of ''abandoned'' should match the definition in the Pipeline Safety Regulations (49 CFR parts 192.3 and 195.2) to mean permanently abandoned and emptied lines. COGENT supported the inclusion of this attribute but recommended applying the requirement retroactively to all abandoned pipelines. TPA, DTE Gas, and TransCanada submitted comments questioning the need for this information for risk assessment or integrity management calculation. AGA had concerns that including this attribute would encourage excavators to use NPMS instead of one call in areas where abandoned lines are expected, noting that there is a potential threat to telecommunications infrastructure that uses abandoned gas lines as cable conduits.

PHMSA intends to move forward with this attribute as originally proposed. This information is important for

PHMSA inspections, particularly to enforce proper abandonment procedures. PHMSA inspectors have identified incidents in the past involving lines which had been mischaracterized as abandoned (*i.e.* still containing product). Additionally, there is a high level of public interest in this information. Since operators are already required to map their lines, identifying recently abandoned segments is not exceedingly burdensome.

W. Pump and Compressor Stations

PHMSA proposes operators submit a geospatial point file containing the locations of pump (for liquid operators) and compressor (for gas transmission operators) stations. COGENT, Spectra Energy Partners, and the Texas Pipeline Association did not oppose this information collection. API/AOPL, TransCanada, and the American Fuel and Petrochemical Manufacturers opposed this data collection due to security concerns. PHMSA intends to move forward with this attribute as originally proposed. Pump and compressor stations are vulnerable areas, and emergency responders need to know their locations for adequate emergency planning. Proximity to a compressor station has also been known to influence the level of stress on nearby segments, making this information valuable for prioritizing inspection resources. Additionally, the stations are often referenced as inspection boundaries for PHMSA's inspectors. Regarding security concerns, this information will be password protected under PIMMA, and PHMSA notes that this information is already available in commercial datasets.

X. Mainline Block Valves

PHMSA proposes operators submit a geospatial point file containing the locations of mainline block valves, the type of valves and the type of valve operators. PHMSA received comments from Spectra Energy Partners and Energy Transfer Partners, who were unopposed to the inclusion of this attribute in NPMS. TPA conceded that valve location could be useful for PHMSA risk evaluation, but that the valve type component of the attribute had no safety benefit. AGA, TPA, Energy Transfer Partners, DTE Gas Company, Vectren, and TransCanada noted that this information is not valuable to emergency responders as they are not permitted to operate block valves. Comments from API/AOPL and Southwest Gas emphasized security concerns. PHMSA will collect mainline block valve locations and associated attributes as described in the NPMS Operator Standards Manual. Valve location can assist emergency responders when working with pipeline operators during an emergency, and it is useful to PHMSA inspectors and partners to identify vulnerable points along a pipeline.

Y. Gas Storage Fields

PHMSA proposes operators submit a geospatial polygon file containing the locations of and type of gas storage fields used in interstate gas transmission systems. PHMSA received comments from COGENT and Energy Transfer Partners expressing support for including this attribute. API/AOPL, AGA, TPA, AFPM, DTE Gas Company, and Spectra Energy Partners submitted comments strongly opposed to this proposal. The commenters opposed to including this attribute believe it exceeds PHMSA's jurisdiction and poses a security risk. PHMSA notes that the agency has legal jurisdiction over the transportation of gas which includes ''storage of gas in or affecting interstate or foreign commerce'', by the definition of transportation of gas in 49 CFR 192.3. PHMSA further notes that this information would be available only to individuals cleared for access to the PIMMA password protected mapping site. This information would help state and local emergency response planners prepare for incidents involving these facilities. More details on how to submit this data are available in the NPMS Operator Standards Manual.

Z. Breakout Tanks

PHMSA proposed to require the submission of breakout tank data. This is currently an optional submission; this revision would make it mandatory. PHMSA received positive comments from COGENT, API/AOPL, Texas Pipeline Association, and Spectra Energy Partners. API requested security safeguards, and Spectra wanted clarification if it was a point file for each tank or the boundary of a tank farm.

PHMSA intends to proceed with this attribute as originally proposed. As detailed in the NPMS Operator Standards Manual, this information will be stored as a point file for each tank. This helps inspectors locate individual tanks as a tank farm may contain both breakout tanks and other tanks.

AA. LNG Attributes

PHMSA proposed to collect additional data attributes for liquefied natural gas (LNG) plants used in or affecting interstate commerce. These new attributes include type of plant, capacity, impoundments, exclusion zones and year constructed. COGENT and Spectra Energy Partners submitted comments supporting including this attribute. TPA supported making submitting LNG plant information mandatory but had security concerns with the new descriptive attributes included with this revision. The American Gas Association claimed that existing comprehensive risk analyses performed by the Department of Homeland Security means that PHMSA does not need to include this in its risk analysis on pipelines.

PHMSA intends to proceed with this information as originally proposed. Detailed LNG attributes will be protected by access to PIMMA and only available to PHMSA, state pipeline safety officials, and emergency responders. Geospatial information on the location and characteristics of LNG plants helps PHMSA and emergency responders better understand potential safety risks on a national and local level respectively.

IV. General Comments

A. Reporting

INGAA, API/AOPL, AGA, and GPA submitted comments indicating that some of the proposed attributes appear to be duplicative of information that PHMSA already collects, especially from the annual reports.

B. Burden

A number of operators commented highlighting the expected burden of the proposed revisions to the information collection. Comments submitted by INGAA, API TPA, Ameren, and MidAmerican claimed that PHMSA greatly underestimated the expected burden of this revision. AGA, Ameren Illinois, Laclede Gas Co. and TransCanada noted that a high regulatory burden could divert resources from other safety initiatives such as integrity management and infrastructure replacement activities. Intermountain, Avista, Ameren Missouri, Ameren Illinois, Southwest Gas, AGA, and INGAA noted that many of the proposed changes were beyond the capability of their existing GIS, and would require resources to upgrade systems and hire individuals to convert non-GIS or paper records to an appropriate format.

C. Legality

INGAA, AGA, API/AOPL, and CenterPoint Energy submitted comments suggesting that certain aspects of the proposal exceed what is considered acceptable for an information collection regulated under

the Paperwork Reduction Act, and that it should have been considered as a rulemaking. API/AOPL further commented on their opinion that the NPMS is intended for public awareness, rather than for other roles such as risk management. PHMSA responds that this information collection complies with the paperwork reduction act, as it was done with the approval of OMB. Further, this information collection revision was carried out with additional procedures normally involved in a rulemaking such as the notice and comment procedures, public meetings, advisory committee discussions, and a proposed hearing. Regarding the purpose of the NPMS, the statute makes clear that NPMS has applicability beyond public awareness, especially for emergency response. The Web site itself states that NPMS is, ''used by government officials, pipeline operators, and the general public for a variety of tasks including emergency response, smart growth planning, critical infrastructure protection, and environmental protection.'' See *https://www.npms.phmsa.dot.gov/About.aspx.*

D. Data Security

PHMSA understands that the new data elements have varying degrees of sensitivity, and that some of the new elements are highly sensitive. PHMSA has discussed the appropriate security categorization for the new data elements with the Transportation Security Administration (TSA). The following new data elements are proposed to be classified as SSI (Sensitive Security Information). These elements would be kept in an SSI-compliant environment at PHMSA. They would be released to no other parties except for government agencies who can verify they maintain an SSI-compliant environment.

SSI Elements

- Highest percent operating SMYS
- MAOP/MOP
- Segment ''could affect'' an HCA
- Pump and compressor stations
- Mainline block valves

The following elements are proposed to be restricted to PIMMA, the mapping application on *www.npms.phmsa.dot.gov* which is password-protected and available only to government officials (who may see their area of jurisdiction) or pipeline operators (who may see only the pipelines they operate).

PIMMA Elements

- Diameter
- Commodity detail
- Pipe grade
- Seam type
- Decade of installation
- Wall thickness
- Inline inspection
- Class location
- Gas HCA segment
- Year of last ILI inspection
- Coated/uncoated and cathodic protection
- Type of coating
- FRP control and sequence numbers
- Year of original and last pressure test
- Gas storage fields
- All new LNG plant attributes
- Capacity element for breakout tanks

The following elements are proposed to be displayed on the NPMS Public Viewer, which can be accessed by the general public.

Public Viewer Elements

- Pipe grade
- Pipe join method
- Onshore/offshore
- Abandoned lines
- Breakout tanks (excluding capacity)

E. INGAA Counter Proposal

The Interstate Natural Gas Association of America submitted comments which included an alternative plan for revisions to the NPMS. INGAA proposed to collect only pipe material, nominal diameter, HCA, pipe coating (yes/no), cathodic protection (yes/no), ILI capability (yes/no), and commodity type. INGAA further proposed an alternative positional accuracy requirement of 50 feet for 70 percent of mileage and 100 feet for the remaining 30 percent. PHMSA has addressed the positional accuracy standard in the previous section. PHMSA further finds that the set of attributes proposed by INGAA is inadequate to meet the agency's risk assessment and emergency planning goals.

F. Definitions

API/AOPL, INGAA, DTE Gas Company, the Pipeline Safety Trust has serious concerns about the use of the word ''predominant.'' Other commenters made attribute specific comments to a similar effect. These criticisms centered on how the usage of predominant attributes is poorly defined, difficult to verify compliance with, and risks improper categorization of pipeline risk. For these reasons PHMSA has largely eliminated the option to submit data on a predominant basis.

Spectra Energy Partners requested general guidance on the definition of a segment. Other commenters had attribute-specific comments to a similar effect. This information is defined in more detail in the NPMS Operator Standards Manual.

V. Timeline for Collection of New Data Elements

PHMSA has heard operators' and industry's concerns regarding the amount of time needed to compile, research, and/or prepare the data required for this information collection. PHMSA will collect the new data elements in three phases. Phase 1 data will be collected the first submission year after the effective date, Phase 2 data will be collected the second submission year after the effective date, and Phase 3 data will be collected the third submission year after the effective date. The data elements in each phase are listed below.

Phase 1

- Pipe diameter
- Commodity detail
- Pipe material
- Pipe grade
- Wall thickness
- Pipe joining method
- MAOP/MOP
- Highest percent operating SMYS
- Seam type
- Onshore/offshore
- Inline inspection
- Class location
- Gas HCA segment
- FRP control number and sequence number, if applicable
- Abandoned pipelines
- Pump and compressor stations
- Breakout tanks
- LNG attributes

Phase 2

- Decade of installation
- Segment could affect an HCA
- Year of last ILI
- Coated/uncoated and cathodic protection
- Type of coating
- Year and pressure of last pressure test
- Mainline block valves
- Gas storage fields

Phase 3

- Positional accuracy conforms with new standards
- Year and pressure of original pressure test

VI. Summary of Impacted Collection

The following information is provided for this information collection: (1) Title of the information collection, (2) OMB control number, (3) Current expiration date, (4) Type of request, (5) Abstract of the information collection activity, (6) Description of affected public, (7) Frequency of collection, and (8) Estimate of total annual reporting and recordkeeping burden. PHMSA requests comments on the following information collection:

Title: National Pipeline Mapping System Program.

OMB Control Number: 2137–0596.

Form Numbers: N/A.

Expiration Date: 6/30/2016.

Type of Review: Revision of a Previously Approved Information Collection.

Abstract: Each operator of a pipeline facility (except distribution lines and gathering lines) must provide PHMSA geospatial data for their pipeline system and contact information. The provided information is incorporated into the National Pipeline Mapping System (NPMS) to support various regulatory programs, pipeline inspections, and authorized external customers. Following the initial submission of the requested data, the operator must make a new submission to the NPMS if any changes occur so PHMSA can maintain and improve the accuracy of the NPMS's information.

Respondents: Operators of natural gas, hazardous liquid, and liquefied natural gas pipelines.

Number of Respondents: 1,211.

Number of Responses: 1,211.

Frequency: Annual.

Estimate of Total Annual Burden: 335,124 hours.

Public Comments Invited: You are asked to comment on any aspect of this information collection, including (a) Whether the proposed collection of information is necessary for the Department's performance; (b) the accuracy of the estimated burden; (c) ways for the Department to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information.

The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. chapter 35, as amended; and 49 CFR 1:48.

Issued in Washington, DC on August 21, 2015, under authority delegated in 49 CFR 1.97.

Jeffrey D. Wiese,

Associate Administrator for Pipeline Safety.

[FR Doc. 2015–21238 Filed 8–26–15; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF THE TREASURY

Alcohol and Tobacco Tax and Trade Bureau

[Docket No. TTB–2015–0001]

Proposed Information Collections; Comment Request (No. 55)

AGENCY: Alcohol and Tobacco Tax and Trade Bureau (TTB); Treasury.

ACTION: Notice and request for comments.

SUMMARY: As part of our continuing effort to reduce paperwork and respondent burden, and as required by the Paperwork Reduction Act of 1995, we invite comments on the proposed or continuing information collections listed below in this notice.

DATES: We must receive your written comments on or before October 26, 2015.

ADDRESSES: As described below, you may send comments on the information collections listed in this document using the ''Regulations.gov'' online comment form for this document, or you may send written comments via U.S. mail or hand delivery. TTB no longer accepts public comments via email or fax.

- *http://www.regulations.gov*: Use the comment form for this document posted within Docket No. TTB–2015–0001 on ''Regulations.gov,'' the Federal e-rulemaking portal, to submit comments via the Internet;
- *U.S. Mail:* Michael Hoover, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street NW., Box 12, Washington, DC 20005.
- *Hand Delivery/Courier in Lieu of Mail:* Michael Hoover, Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street NW., Suite 400, Washington, DC 20005.

Please submit separate comments for each specific information collection listed in this document. You must reference the information collection's title, form or recordkeeping requirement number, and OMB number (if any) in your comment.

You may view copies of this document, the information collections listed in it and any associated instructions, and all comments received in response to this document within Docket No. TTB–2015–0001 at *http://www.regulations.gov.* A link to that docket is posted on the TTB Web site at *http://www.ttb.gov/forms/comment-on-form.shtml.* You may also obtain paper copies of this document, the information collections described in it and any associated instructions, and any comments received in response to this document by contacting Michael Hoover at the addresses or telephone number shown below.

FOR FURTHER INFORMATION CONTACT: Michael Hoover, Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street, NW., Box 12, Washington, DC 20005; telephone 202–453–1039, ext. 135; or email *informationcollections@ttb.gov* (please *do not* submit comments on this notice to this email address).

SUPPLEMENTARY INFORMATION:

Request for Comments

The Department of the Treasury and its Alcohol and Tobacco Tax and Trade Bureau (TTB), as part of their continuing effort to reduce paperwork and respondent burden, invite the general public and other Federal agencies to comment on the proposed or continuing information collections listed below in this notice, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Comments submitted in response to this notice will be included or summarized in our request for Office of Management and Budget (OMB) approval of the relevant information collection. All comments are part of the public record and subject to disclosure. Please do not include any confidential or inappropriate material in your comments.

We invite comments on: (a) Whether this information collection is necessary for the proper performance of the agency's functions, including whether the information has practical utility; (b) the accuracy of the agency's estimate of the information collection's burden; (c) ways to enhance the quality, utility, and clarity of the information collected; (d) ways to minimize the information collection's burden 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 the requested information.

Information Collections Open for Comment

Currently, we are seeking comments on the following forms, recordkeeping requirements, or questionnaires:

Title: Authorization to Furnish Financial Information and Certificate of Compliance.

OMB Number: 1513–0004.

TTB Form Number: F 5030.6.

Abstract: The TTB regulations require applicants for alcohol and tobacco

permits to provide certain information regarding the money used to finance the business. The Right to Financial Privacy Act of 1978 (the Act; 12 U.S.C. 3401 *et seq.*) limits government access to records held by financial institutions, provides for certain procedures to gain access to such information, and requires that government agencies certify to a financial institution that the agency has complied with all provisions of the Act. TTB F 5030.6 acts as both a customer authorization that provides TTB the authority to receive the financial information and as the required certification to the financial institution.

Current Actions: We are submitting this information collection for extension purposes only. The information collection, estimated number of respondents, and estimated number of burden hours remain unchanged.

Type of Review: Extension of a currently approved collection.

Affected Public: Businesses or other for-profits.

Estimated Number of Respondents: 2,000.

Estimated Total Annual Burden Hours: 500.

Title: Liquors and Articles from Puerto Rico or the Virgin Islands, TTB REC 5530/3.

OMB Number: 1513–0089.

TTB Recordkeeping Requirement Number: REC 5530/3.

Abstract: TTB uses the records required to be kept under this information collection to verify claims for drawback of the Federal excise tax paid on nonbeverage products brought into the United States from Puerto Rico and the U. S. Virgin Islands.

Current Actions: We are submitting this information collection for extension purposes only. The recordkeeping requirements, estimated number of respondents, and estimated number of burden hours remain unchanged.

Type of Review: Extension of a currently approved collection.

Affected Public: Businesses or other for-profits.

Estimated Number of Respondents: 20.

Estimated Total Annual Burden Hours: 160.

OMB Control Number: 1513–0131.

Title: Certificate of Taxpaid Alcohol.

OMB Number: 1513–0131.

TTB Form Number: F 5100.4.

Abstract: Under 27 CFR 17.181, flavoring extracts, medicinal and toilet preparations, and perfume produced in the United States and then exported are eligible for drawback of all Federal alcohol excise taxes paid on the distilled spirits used to make the product, as provided in 19 U.S.C. 1313(d). When such nonbeverage products are exported, the industry member submits TTB F 5100.4 and supporting documentation to TTB to claim the remaining $1.00 per gallon of distilled spirits excise tax not previously claimed for domestic drawback. TTB certifies the form to show that the excise taxes were previously paid and not refunded. TTB then sends the certified form and supporting documents to the U.S. Customs and Border Protection to be processed and for the refund of the remaining $1.00 per gallon paid in excise taxes. TTB keeps a copy of the form on file to compare with future submissions in order to prevent duplication.

Current Actions: We are submitting this information collection for extension purposes only. The recordkeeping requirements, estimated number of respondents, and estimated number of burden hours remain unchanged.

Type of Review: Extension of a currently approved collection.

Affected Public: Businesses or other for-profits.

Estimated Number of Respondents: 10.

Estimated Total Annual Burden Hours: 500.

Dated: August 20, 2015.

Amy R. Greenberg,

Director, Regulations and Rulings Division.

[FR Doc. 2015–21260 Filed 8–26–15; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Notice 2006–25

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, 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, Public Law 104–13(44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Notice 2006–25, Qualifying Gasification Project Program.

DATES: Written comments should be received on or before October 26, 2015 to be assured of consideration.

ADDRESSES: Direct all written comments to Christie A. Preston, Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the notice should be directed to Martha R. Brinson, Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224, or through the Internet, at *Martha.R.Brinson@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Qualifying Gasification Project Program.

Notice Number: 1545–2002.

Abstract: This notice establishes the qualifying gasification project program under § 48B of the Internal Revenue Code. The notice provides the time and manner for a taxpayer to apply for an allocation of qualifying gasification project credits.

Current Actions: There are no changes being made to the notice at this time.

Type of Review: Extension of currently approved collection.

Affected Public: Business or other-for-profit organizations.

Estimated Number of Respondents: 20.

Estimated Time per Respondent: 51 minutes.

Estimated Total Annual Reporting Burden Hours: 1,700.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden 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.

Approved: August 19, 2015.

Martha R. Brinson,

IRS, Tax Analyst.

[FR Doc. 2015–21257 Filed 8–26–15; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 1099–CAP

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, 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, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 1099–CAP, Changes in Corporate Control and Capital Structure.

DATES: Written comments should be received on or before October 26, 2015 to be assured of consideration.

ADDRESSES: Direct all written comments to Christie Preston, Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to R. Joseph Durbala, at (202) 317–5746, or at Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224, or through the Internet, at *RJoseph.Durbala@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Changes in Corporate Control and Capital Structure.

OMB Number: 1545–1814.

Form Number: 1099–CAP.

Abstract: Any corporation that undergoes reorganization under Regulation section 1.6043–4T with stock, cash, and other property over $100 million must file Form 1099–CAP with IRS shareholders.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations, and individuals.

Estimated Number of Responses: 350.

Estimated Time per Response: 11 minutes.

Estimated Total Annual Burden Hours: 67.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden 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.

Approved: August 18, 2015.

R. Joseph Durbala,

IRS, Tax Analyst.

[FR Doc. 2015–21088 Filed 8–26–15; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Revenue Procedure

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, 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, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Revenue Procedure 97–27, Changes in Methods of Accounting.

DATES: Written comments should be received on or before October 26, 2015 to be assured of consideration.

ADDRESSES: Direct all written comments to Christie A. Preston, Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies this revenue procedure should be directed to Martha R. Brinson, Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224, or through the Internet at *Martha.R.Brinson@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Changes in Methods of Accounting.

OMB Number: 1545–1541.

Regulation Project Number: Revenue Procedure 97–27, as modified by Revenue Procedures 97–30 and Revenue Procedure 2002–19.

Abstract: The information requested in Revenue Procedure 97–27 is required in order for the Commissioner to determine whether the taxpayer properly is requesting to change its method of accounting and the terms and conditions of that change.

Current Actions: There are no changes being made to the revenue procedure at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations, individuals, not-for-profit institutions, and farms.

Estimated Number of Respondents: 3,276.

Estimated Time per Respondent: 2 hours, 46 minutes.

Estimated Total Annual Burden Hours: 9,083.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal

revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden 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.

Approved: August 18, 2015.

Martha R. Brinson,

IRS, Tax Analyst.

[FR Doc. 2015–21256 Filed 8–26–15; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8569

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, 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, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 8569, Geographic Availability Statement.

DATES: Written comments should be received on or before October 26, 2015 to be assured of consideration.

ADDRESSES: Direct all written comments to Christie Preston, Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Allan Hopkins at Internal Revenue Service, room 6129, 1111 Constitution Avenue NW., Washington, DC 20224, or through the internet at *Allan.M.Hopkins@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Geographic Availability Statement.

OMB Number: 1545–0973.

Form Number: 8569.

Abstract: This form is used to collect information from applicants for the Senior Executive Service Candidate Development Program and other executive positions. The form states an applicant's minimum area of availability and is used for future job replacement consideration.

Current Actions: There are no changes being made to Form 8569 at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals and the Federal Government.

Estimated Number of Respondents: 500.

Estimated Total Annual Burden Hours: 84.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden 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.

Approved: August 19, 2015.

Allan Hopkins,

Tax Analyst.

[FR Doc. 2015–21059 Filed 8–26–15; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF VETERANS AFFAIRS

Privacy Act of 1974: Computer Matching Program

AGENCY: Department of Veterans Affairs.

ACTION: Notice of Computer Matching Program.

SUMMARY: Notice is hereby given that the Department of Veterans Affairs (VA) intends to conduct a recurring computer matching program. This will match personnel records of the Department of Defense (DoD) with VA records of benefit recipients under the Montgomery GI Bill—Active Duty, Montgomery GI Bill—Selected Reserve, Post-9/11 GI Bill, and Reserve Educational Assistance Program.

The goal of these matches is to identify the eligibility status of veterans, servicemembers, and reservists who have applied for or who are receiving education benefit payments under the Montgomery GI Bill—Active Duty, Montgomery GI Bill—Selected Reserve, Post-9/11 GI Bill, and Reserve Educational Assistance Program. The purpose of the match is to enable VA to verify that individuals meet the conditions of military service and eligibility criteria for payment of benefits determined by VA under the Montgomery GI Bill—Active Duty, Montgomery GI Bill—Selected Reserve, Post-9/11 GI Bill, and Reserve Educational Assistance Program.

The authority to conduct this match is found in 38 U.S.C. 3684A(a)(1). The records covered include eligibility records extracted from DoD personnel files and benefit records that VA establishes for all individuals who have applied for and/or are receiving, or have received education benefit payments under the Montgomery GI Bill—Active Duty, Montgomery GI Bill—Selected Reserve, Post-9/11 GI Bill, and Reserve Educational Assistance Program. These benefit records are contained in a VA system of records identified as 58VA21/22/28 entitled: Compensation, Pension, Education, and Vocational Rehabilitation and Employment Records—VA, first published in the **Federal Register** at 74 FR 9294 (March 3, 1976), and last amended at 77 FR

42593 (July 19, 2012), with other amendments as cited therein.

DATES: *Effective Date:* This match will commence on or about September 28, 2015 or 40 days after the Office of Management and Budget (OMB) review period, whichever is later and continue in effect for 18 months. At the expiration of 18 months after the commencing date, the Departments may renew the agreement for another 12 months.

ADDRESSES: Written comments may be submitted through *www.Regulations.gov;* by mail or hand-delivery to the Director, Regulations Management (02REG), Department of Veterans Affairs, 810 Vermont Avenue NW., Room 1068, Washington, DC 20420; or fax to (202) 273–9026. Copies of comments received will be available for public inspection in the Office of Regulation Policy and Management, Room 1063B, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday (except holidays). Please call (202) 461–4902 for an appointment. In addition, during the comment period, comments may be viewed online through the Federal Docket Management System (FDMS) at *www.Regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Eric Patterson, Strategy and Legislative Development Team Leader, Education Service (225B), Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, (202) 461–9830.

SUPPLEMENTARY INFORMATION: This information is required by paragraph 6c of the ''Guidelines on the Conduct of Matching Programs'' issued by OMB (54 FR 25818), as amended by OMB Circular A–130, 65 FR 77677 (2000). A copy of the notice has been provided to both Houses of Congress and OMB. The matching program is subject to their review.

Signing Authority: The Secretary of Veterans Affairs, or designee, approved this document and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs. Robert L. Nabors II, Chief of Staff, approved this document on August 7, 2015, for publication.

Dated: August 24, 2015.

Kathleen M. Manwell,

Program Analyst, VA Privacy Service, Office of Privacy and Records Management, Department of Veterans Affairs.

[FR Doc. 2015–21226 Filed 8–26–15; 8:45 am]

BILLING CODE P

FEDERAL REGISTER

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Part II

Environmental Protection Agency

40 CFR Part 60

Emission Guidelines, Compliance Times, and Standards of Performance for Municipal Solid Waste Landfills; Proposed Rules

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[EPA–HQ–OAR–2014–0451; FRL–9930–64–OAR]

RIN 2060–AS23

Emission Guidelines and Compliance Times for Municipal Solid Waste Landfills

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing a new subpart that updates the Emission Guidelines and Compliance Times for Municipal Solid Waste Landfills (Emission Guidelines). The EPA determined that it was appropriate to review the landfills Emission Guidelines based on changes in the landfills industry since the Emission Guidelines were promulgated in 1996. The EPA's review of the Emission Guidelines for municipal solid waste (MSW) landfills applies to landfills that accepted waste after November 8, 1987, and commenced construction, reconstruction, or modification on or before July 17, 2014. Based on its initial review, the EPA has determined that it is appropriate to propose revisions to the Emission Guidelines that reflect changes to the population of landfills and the results of an analysis of the timing and methods for reducing emissions. This action proposes to achieve additional reductions of landfill gas (LFG) and its components, including methane, by lowering the emissions threshold at which a landfill must install controls. This action also incorporates new data and information received in response to an advanced notice of proposed rulemaking and addresses other regulatory issues including surface emissions monitoring, wellhead monitoring, and the definition of landfill gas treatment system.

In addition to considering information received in response to this proposed rule in evaluating potential changes to the Emission Guidelines, the EPA intends to consider the information in evaluating whether changes to the requirements for new sources beyond those in the July 17, 2014, proposed rule for new sources are warranted.

The proposed revisions to the Emission Guidelines, once implemented through revised state plans or a revised federal plan, would reduce emissions of LFG, which contains both nonmethane organic compounds and methane. Landfills are a significant source of methane which is a potent greenhouse gas (GHG) pollutant. These avoided emissions will improve air quality and reduce public health and welfare effects associated with exposure to landfill gas emissions.

DATES:

Comments. Comments must be received on or before October 26, 2015. Under the Paperwork Reduction Act (PRA), comments on the information collection provisions are best assured of consideration if the Office of Management and Budget (OMB) receives a copy of your comments on or before September 28, 2015.

Public Hearing. If anyone contacts the EPA requesting a public hearing by September 1, 2015, the EPA will hold a public hearing on September 11, 2015 from 1:00 p.m. (Eastern Standard Time) to 5:00 p.m. (Eastern Standard Time) at the location in the **ADDRESSES** section. If no one contacts the EPA requesting a public hearing to be held concerning this proposed rule by September 1, 2015, a public hearing will not take place. Information regarding whether or not a hearing will be held will be posted on the rule's Web site located at *http://www.epa.gov/ttnatw01/landfill/landflpg.htm.* Please contact Ms. Aimee St. Clair at (919) 541–1063 or at *stclair.aimee@epa.gov* to register to speak at the hearing. The last day to pre-register to speak at the hearing will be September 8, 2015.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OAR–2014–0451, 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. 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 submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *http://www2.epa.gov/dockets/commenting-epa-dockets.*

Public Hearing. If a public hearing is held, it will be at the U.S. Environmental Protection Agency building located at 109 T.W. Alexander Drive, Research Triangle Park, NC 27711. Information regarding whether or not a hearing will be held will be posted on the rule's Web site located at *http://www.epa.gov/ttnatw01/landfill/landflpg.htm.*

Please see section II.D of the **SUPPLEMENTARY INFORMATION** for detailed information on the public hearing.

Docket: All documents in the docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, *e.g.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy at the EPA Docket Center, EPA/DC, EPA WJC West Building, Room 3334, 1301 Constitution Ave. NW., Washington, DC. This Docket Facility 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 Air Docket is (202) 566–1742.

FOR FURTHER INFORMATION CONTACT: For information concerning this proposal, contact Ms. Hillary Ward, Fuels and Incineration Group, Sector Policies and Programs Division, Office of Air Quality Planning and Standards (E143–05), Environmental Protection Agency, Research Triangle Park, NC 27711; telephone number: (919) 541–3154; fax number: (919) 541–0246; email address: *ward.hillary@epa.gov.*

SUPPLEMENTARY INFORMATION:

Acronyms and Abbreviations. The following acronyms and abbreviations are used in this document.

ACUS Administrative Conference of the United States
ANPRM Advance notice of proposed rulemaking
ANSI American National Standards Institute
ARB Air Resources Board
BMP Best management practice
BSER Best system of emission reduction
Btu British thermal unit
CAA Clean Air Act
CA LMR California Landfill Methane Rule
CBI Confidential business information
CDX Central Data Exchange
CEA Council of Economic Advisers
CEDRI Compliance and Emissions Data Reporting Interface

CFR Code of Federal Regulations
CO_2 Carbon dioxide
CO_2e Carbon dioxide equivalent
DOC Degradable organic carbon
EPA Environmental Protection Agency
ERT Electronic Reporting Tool
GCCS Gas collection and control system
GHG Greenhouse gas
GHGRP Greenhouse Gas Reporting Program
GWP Global warming potential
HAP Hazardous air pollutant
HOV Higher operating value
IAMS Integrated assessment models
ICR Information collection request
IPCC Intergovernmental Panel on Climate Change
IRFA Initial regulatory flexibility analysis
IWG Interagency working group
lb/MMBtu Pounds per million British thermal unit
LCRS Leachate collection and removal system
LFG Landfill gas
LFGCost Landfill Gas Energy Cost Model
LMOP Landfill Methane Outreach Program
m^3 Cubic meters
Mg Megagram
Mg/yr Megagram per year
mph Miles per hour
MSW Municipal solid waste
$mtCO_2e$ Metric tons of carbon dioxide equivalent
MW Megawatt
MWh Megawatt hour
NAICS North American Industry Classification System
NMOC Nonmethane organic compound
NRC National Research Council
NSPS New source performance standards
NTTAA National Technology Transfer and Advancement Act
OAQPS Office of Air Quality Planning and Standards
OMB Office of Management & Budget
PM Particulate matter
$PM_{2.5}$ Fine particulate matter
ppm Parts per million
ppmvd Parts per million by dry volume
RCRA Resource Conservation and Recovery Act
RFA Regulatory Flexibility Act
RFS Renewable Fuel Standard
RIA Regulatory Impacts Analysis
SBAR Small Business Advocacy Review
SC–CH_4 Social cost of methane
SC–CO_2 Social cost of carbon dioxide
SEM Surface emissions monitoring
SER Small entity representative
SO_2 Sulfur dioxide
SSM Startup, shutdown and malfunction
Tg Teragram
TIP Tribal implementation plan
TTN Technology Transfer Network
U.S. United States
USGCRP U.S. Global Change Research Program
VCS Voluntary consensus standard
VOC Volatile organic compound
WWW World Wide Web

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

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I. Executive Summary

A. Purpose of Regulatory Action

This action proposes changes to the MSW landfills Emission Guidelines resulting from the EPA's review of the Emission Guidelines under Clean Air Act (CAA) section 111. The EPA's review identified a number of advances in technology and operating practices and the proposed changes are based on our evaluation of those advances and our understanding of LFG emissions. The resulting changes to the Emission Guidelines, if adopted, will achieve additional reductions in emissions of landfill gas and its components, including methane. This proposed rule is consistent with the President's 2013 Climate Action Plan,[1] which directs federal agencies to focus on ''assessing current emissions data, addressing data gaps, identifying technologies and best practices for reducing emissions, and identifying existing authorities and incentive-based opportunities to reduce methane emissions.'' The proposed changes are also consistent with the

[1] Executive Office of the President, ''The President's Climate Action Plan'' June 2013. *https://www.whitehouse.gov/sites/default/files/image/president27sclimateactionplan.pdf.*

President's Methane Strategy,[2] which directs EPA's regulatory and voluntary programs to continue to pursue emission reductions through regulatory updates and to encourage LFG energy recovery through voluntary programs. These directives are discussed in detail in section III.A of this preamble. This regulatory action also proposes to either resolve or clarify implementation issues that were previously addressed in amendments proposed on May 23, 2002 (67 FR 36475) and September 8, 2006 (71 FR 53271).

1. Need for Regulatory Action

The EPA reviewed the Emission Guidelines to determine the potential for achieving additional reductions in emissions of LFG. Such reductions would reduce air pollution and the resulting harm to public health and welfare. Significant changes have occurred in the landfill industry over time, including changes to the size and number of existing landfills, industry practices, and gas control methods and technologies. Based on the EPA's initial review, we are proposing changes to the Emission Guidelines. The proposed changes, if adopted, will achieve additional emission reductions of LFG and its components (including methane), provide more effective options for demonstrating compliance, and provide clarification of implementation issues raised during the amendments proposed in 2002 and 2006.

2. Legal Authority

The EPA is not statutorily obligated to conduct a review of the Emission Guidelines, but has the discretion to do so when circumstances indicate that it is appropriate. The EPA has determined that it is appropriate to review and propose changes to the Emission Guidelines at this time based on changes in the landfill industry and changes in the size, ownership, and age of landfills since the Emission Guidelines were promulgated in 1996. The EPA compiled new information on landfills through data collection efforts for a statutorily mandated review of the existing new source performance standards (NSPS) (40 CFR part 60, subpart WWW), public comments received on the NSPS proposal (79 FR 41796, July 17, 2014), and public comments received on the Advanced Notice of Proposed Rulemaking (ANPRM) (79 FR 41772, July 17, 2014) for a review of the Emission Guidelines. This information is allowing the EPA to assess current practices, emissions, and the potential for additional emission reductions.

B. Summary of Major Provisions

The proposed revised Emission Guidelines will ultimately apply to landfills that accepted waste after November 8, 1987,[3] and that commenced construction, reconstruction, or modification on or before July 17, 2014 (the date of publication of proposed revisions to the landfills NSPS, 40 CFR part 60, subpart XXX). The proposed rule provisions are described below.

Thresholds for installing or removing controls. The proposed revised Emission Guidelines retain the current design capacity threshold of 2.5 million megagrams (Mg) and 2.5 million cubic meters (m^3), but reduce the nonmethane organic compounds (NMOC) emission threshold for the installation and removal of a gas collection and control system (GCCS) from 50 Mg/yr to 34 Mg/yr for landfills that are not closed. As proposed, an MSW landfill that exceeds the design capacity threshold must install and start up a GCCS within 30 months after LFG emissions reach or exceed an NMOC level of 34 Mg/yr NMOC. (A megagram is also known as a metric ton, which is equal to 1.1 U.S. short tons or about 2,205 pounds.) Consistent with the existing Emission Guidelines, the owner or operator of a landfill may control the gas by routing it to a non-enclosed flare, an enclosed combustion device, or a treatment system that processes the collected gas for subsequent sale or beneficial use.

Landfill Gas Treatment. The EPA is proposing to address two issues related to LFG treatment. First, the EPA is proposing to clarify that the use of treated LFG is not limited to use as a fuel for a stationary combustion device but also allows other beneficial uses such as vehicle fuel, production of high-Btu gas for pipeline injection, and use as a raw material in a chemical manufacturing process. Second, the EPA is proposing to define *Treated landfill gas* as LFG processed in a treatment system meeting the requirements in 40 CFR part 60, subpart Cf and to define *Treatment system* as a system that filters, de-waters, and compresses LFG for sale or beneficial use. The proposed definition allows the level of treatment to be tailored to the type and design of the specific combustion or other equipment for other beneficial uses such as vehicle fuel, production of high-Btu gas for pipeline injection, or use as a raw material in a chemical manufacturing process in which the LFG is used. Owners or operators would develop a site-specific treatment system monitoring plan that would include monitoring parameters addressing all three elements of treatment (filtration, de-watering, and compression) to ensure the treatment system is operating properly for the intended end use of the treated LFG. They would also keep records that demonstrate that such parameters effectively monitor filtration, de-watering, and compression system performance necessary for the end use of the treated LFG.

Surface Monitoring. The EPA proposes monitoring of all surface penetrations for existing landfills. In proposed 40 CFR part 60, subpart Cf, landfills must conduct surface emissions monitoring (SEM) at all cover penetrations and openings within the area of the landfill where waste has been placed and a gas collection system is required to be in place and operating according to the operational standards in proposed 40 CFR part 60, subpart Cf. Specifically, landfill owners or operators must conduct surface monitoring on a quarterly basis at the specified intervals and where visual observations indicate elevated concentrations of landfill gas, such as distressed vegetation and cracks or seeps in the cover and all cover penetrations.

Emission Threshold Determination. The EPA is proposing an alternative site-specific emission threshold determination for when a landfill must install and operate a GCCS. This alternative emission threshold determination, referred to as ''Tier 4,'' is based on surface emission monitoring and demonstrates that surface emissions are below a specific threshold. The Tier 4 SEM demonstration would allow landfills that exceed modeled NMOC emission rates using Tiers 1, 2, or 3 to demonstrate that site-specific surface methane emissions are low. A landfill that can demonstrate that surface emissions are below 500 parts per million (ppm) for 4 consecutive quarters would not trigger the requirement to install a GCCS even if Tier 1, 2, or 3 calculations indicate that the 34 Mg/yr threshold has been exceeded.

Wellhead Operational Standards. The EPA proposes to remove the operational

[2] Executive Office of the President, ''Climate Action Plan Strategy to Reduce Methane, March 2014. *https://www.whitehouse.gov/sites/default/files/strategy_to_reduce_methane_emissions_2014-03-28_final.pdf.*

[3] This date in 1987 is the date on which permit programs were established under the Hazardous and Solid Waste Amendments of the Resource, Conservation and Recovery Act (RCRA) which amended the Solid Waste Disposal Act (SWDA), 42 U.S.C. 6901–6992k. This date was also selected as the regulatory cutoff in the EG for landfills no longer receiving wastes because the EPA judged States would be able to identify active facilities as of this date.

standards (*i.e.,* the requirement to meet operating limits) for temperature and nitrogen/oxygen at the wellheads. Landfill owners or operators would not be required to take corrective action based on exceedances of specified operational standards, but they would continue to monitor temperature and oxygen/nitrogen levels at wellheads in order to inform any necessary adjustments to the GCCS and would maintain records of monthly readings. The operational standard, corrective action, and corresponding recordkeeping and reporting remain for maintaining negative pressure at the wellhead.

Closed Landfills. Because many landfills are closed and do not produce as much LFG, the EPA is proposing a separate subcategory for landfills that closed on or before August 27, 2015. Landfills in this subcategory will continue to be subject to an NMOC emission threshold of 50 Mg/yr for determining when controls must be installed or can be removed.

Low LFG Producing Areas. The EPA is also proposing alternative criteria for determining when it is appropriate to cap or remove a portion of the GCCS at such landfills. The proposed alternative criteria for capping or removing the GCCS are: (1) The landfill is closed or an area of an active landfill is closed, (2) the GCCS has operated for at least 15 years or the landfill owner or operator can demonstrate that the GCCS will be unable to operate for 15 years due to declining gas flows, and (3) the landfill owner or operator demonstrates that there are no surface methane emissions of 500 ppm or greater in the landfill or closed area for 4 consecutive quarters.

Startup, Shutdown, and Malfunction. The EPA is proposing that standards in the Emission Guidelines apply at all times, including periods of startup, shutdown, and malfunction (SSM). In addition, to enable the EPA to determine the severity of any emissions exceedance that might occur during periods when the gas collection system or a control device is not operating, the EPA is proposing to add a recordkeeping and reporting requirement for landfill owners or operators to estimate emissions during such periods.

Requests for Comment. The EPA welcomes comments on all aspects of this proposal and is specifically requesting comments on the following topics:

- Defining closed areas of open landfills.
- Changing the walking pattern for surface emissions monitoring from 30 meters (98 ft) to 25 ft and adding a methane concentration limit of 25 ppm as determined by an integrated reading.
- Addressing wet landfills.
- Monitoring wellhead flow rate.
- Establishing a program for third-party design plan certification.
- Using a portable gas composition analyzer as acceptable alternative to Method 3A or 3C.

Other Clarifications. The EPA is proposing other clarifications to address issues that have been raised by landfill owners or operators during implementation of the current NSPS and Emission Guidelines. These other clarifications include adding criteria for when an affected source must update its design plan and clarifying when landfill owners or operators must submit corrective action timeline requests. The EPA is also proposing to update several definitions in the Emission Guidelines. In addition, while the EPA is not proposing to mandate organics diversion we are proposing two specific compliance flexibilities in the Emission Guidelines to encourage wider adoption of organics diversion and GCCS Best Management Practices (BMPs) for emission reductions at landfills. These compliance flexibilities are discussed in sections VI.B (wellhead monitoring) and VII.A (Tier 4 emission threshold determination) of this preamble.

C. Costs and Benefits

The proposed revised Emission Guidelines are expected to significantly reduce emissions of landfill gas and its components, which include methane, volatile organic compounds (VOC), and hazardous air pollutants (HAP). Landfills are a significant source of methane emissions, and in 2013, landfills represented the third largest source of human-related methane emissions in the U.S.

To comply with the emissions limits in the proposed rule, MSW landfill owners or operators are expected to install the least-cost control for collecting and combusting landfill gas. The annualized net cost for the proposed Emission Guidelines is estimated to be $46.8 million (2012$) in 2025, when using a 7 percent discount rate. The annualized costs represent the costs compared to no changes to the current Emission Guidelines (*i.e.,* baseline) and include $101 million to install and operate a GCCS, as well as $0.64 million to complete the corresponding testing and monitoring. These control costs are offset by $55.3 million in revenue from electricity sales, which is incorporated into the net control costs for certain landfills that are expected to generate revenue by using the landfill gas to produce electricity.

Installation of a GCCS to comply with the 34 Mg/yr NMOC emissions threshold at open landfills would achieve reductions of 2,770 Mg/yr NMOC and 436,100 Mg/yr methane (about 10.9 million metric tons of carbon dioxide equivalent per year ($mtCO_2e$/yr)) beyond the baseline in year 2025. In addition, the proposal is expected to result in the net reduction of 238,000 Mg CO_2, due to reduced demand for electricity from the grid as landfills generate electricity from landfill gas. The NMOC portion of landfill gas can contain a variety of air pollutants, including VOC and various organic HAP. VOC emissions are precursors to both fine particulate matter ($PM_{2.5}$) and ozone formation. These pollutants, along with methane, are associated with substantial health effects, welfare effects, and climate effects. The EPA expects that the reduced emissions will result in improvements in air quality and lessen health effects associated with exposure to air pollution related emissions, and result in climate benefits due to reductions of the methane component of landfill gas.

The EPA estimates that the proposal's estimated methane emission reductions and secondary CO_2 emission reductions in the year 2025 would yield global monetized climate benefits of $310 million to approximately $1.7 billion, depending on the discount rate. Using the mean social cost of methane (SC-CH_4) and social cost of CO_2 (SC-CO_2), at a 3-percent discount rate, results in an estimate of about $670 million in 2025.

The SC-CH_4 and SC-CO_2 are the monetary values of impacts associated with marginal changes in methane and CO_2 emissions, respectively, in a given year. It includes a wide range of anticipated climate impacts, such as net changes in agricultural productivity, property damage from increased flood risk, and changes in energy system costs, such as reduced costs for heating and increased costs for air conditioning.

With the data available, we are not able to provide health benefit estimates for the reduction in exposure to HAP, ozone, and $PM_{2.5}$ for this rule. This is not to imply that there are no such benefits of the rule; rather, it is a reflection of the difficulties in modeling the direct and indirect impacts of the reductions in emissions for this sector with the data currently available.

Based on the monetized benefits and costs, the estimated net benefits of the rule are estimated to be $620 million ($2012) in 2025.

II. General Information

A. Does this action apply to me?

This proposed rule addresses existing MSW landfills and associated solid waste management programs. Potentially affected categories include those listed in Table 1 of this preamble.

TABLE 1—REGULATED ENTITIES

Category	NAICS [a]	Examples of affected facilities
Industry: Air and water resource and solid waste management	924110	Solid waste landfills.
Industry: Refuse systems—solid waste landfills	562212	Solid waste landfills.
State, local, and tribal government agencies	924110	Administration of air and water resource and solid waste management programs.

[a] North American Industry Classification System.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by the new subpart. To determine whether your facility would be regulated by this action, you should carefully examine the applicability criteria in proposed 40 CFR 60.32f of subpart Cf. If you have any questions regarding the applicability of the proposed subpart to a particular entity, contact the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

B. What should I consider as I prepare my comments?

1. Submitting CBI

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 marked as CBI will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or email. Send or deliver information identified as CBI to only the following address: OAQPS Document Control Officer (Room C404–02), U.S. EPA, Research Triangle Park, NC 27711, Attention Docket ID No. EPA–HQ–OAR–2014–0451.

If you have any questions about CBI or the procedures for claiming CBI, please consult the person identified in the **FOR FURTHER INFORMATION CONTACT** section.

2. Docket

The docket number for the Emission Guidelines and Compliance Times for Municipal Solid Waste Landfills (proposed 40 CFR part 60, subpart Cf) is Docket ID No. EPA–HQ–OAR–2014–0451. Docket ID No. A–88–09 for related 40 CFR part 60, subparts WWW and Cc contains supporting information.

C. Where can I get a copy of this document and other related information?

World Wide Web (WWW). In addition to being available in the docket, an electronic copy of the proposed Emission Guidelines is available on the Technology Transfer Network (TTN) Web site. Following signature, the EPA will post a copy of proposed 40 CFR part 60, subpart Cf on the TTN's policy and guidance page for newly proposed or promulgated rules at *http://www.epa.gov/ttnatw01/landfill/landflpg.html.* The TTN provides information and technology exchange in various areas of air pollution control.

D. Public Hearing

Please contact Ms. Aimee St. Clair at (919) 541–1063 or at *stclair.aimee@epa.gov* to register to speak at the hearing. The last day to pre-register to speak at the hearing will be September 8, 2015. Requests to speak will be taken the day of the hearing at the hearing registration desk, although preferences on speaking times may not be able to be fulfilled. If you require the service of a translator or special accommodations such as audio description, please let us know at the time of registration.

If a hearing is held, it will provide interested parties the opportunity to present data, views or arguments concerning the proposed action. The EPA will make every effort to accommodate all speakers who arrive and register. Because this hearing, if held, will be at U.S. government facilities, individuals planning to attend the hearing should be prepared to show valid picture identification to the security staff in order to gain access to the meeting room. Please note that the REAL ID Act, passed by Congress in 2005, established new requirements for entering federal facilities. If your driver's license is issued by Alaska, American Samoa, Arizona, Kentucky, Louisiana, Maine, Massachusetts, Minnesota, Montana, New York, Oklahoma or the state of Washington, you must present an additional form of identification to enter the federal building. Acceptable alternative forms of identification include: Federal employee badges, passports, enhanced driver's licenses and military identification cards. In addition, you will need to obtain a property pass for any personal belongings you bring with you. Upon leaving the building, you will be required to return this property pass to the security desk. No large signs will be allowed in the building, cameras may only be used outside of the building and demonstrations will not be allowed on federal property for security reasons.

The EPA may ask clarifying questions during the oral presentations, but will not respond to the presentations at that time. Written statements and supporting information submitted during the comment period will be considered with the same weight as oral comments and supporting information presented at the public hearing. Commenters should notify Ms. St. Clair if they will need specific equipment, or if there are other special needs related to providing comments at the hearings. Verbatim transcripts of the hearing and written statements will be included in the docket for the rulemaking. The EPA will make every effort to follow the schedule as closely as possible on the day of the hearing; however, please plan for the hearing to run either ahead of schedule or behind schedule. A public hearing will not be held unless requested. Please contact Ms. Aimee St. Clair at (919) 541–1063 or at stclair.aimee@epa.gov to

request or register to speak at the hearing or to inquire as to whether a hearing will be held. Again further information on the public hearing will be provided on the rule's Web site located at *http://www.epa.gov/ttnatw01/landfill/landflpg.html.*

III. Background

The Emission Guidelines for MSW landfills were promulgated on March 12, 1996, and subsequently amended on June 16, 1998, February 24, 1999, and April 10, 2000, to make technical corrections and clarifications. Amendments were proposed on May 23, 2002, and September 8, 2006, to address implementation issues, but those amendments were never finalized. On July 17, 2014, the EPA issued an ANPRM for the MSW landfills Emission Guidelines (79 FR 41772). The purpose of that action was to request public input on controls and practices that could further reduce emissions from existing MSW landfills and to evaluate that input to determine if changes to the Emission Guidelines were appropriate. On July 17, 2014, the EPA issued a concurrent proposal for revised NSPS for new MSW landfills (79 FR 41796). In this action, the EPA is proposing a review of and certain changes to the Emission Guidelines to build on progress to date to (1) achieve additional reductions in emissions of LFG and its components, (2) account for changes in size, ownership and age of landfills and trends in GCCS installations, as reflected in new data, (3) provide new options for demonstrating compliance, and (4) to complete efforts regarding unresolved implementation issues. The proposed approaches are consistent with the Methane Strategy developed as part of the President's Climate Action Plan.

A. Landfill Gas Emissions and Climate Change

In June 2013, President Obama issued a Climate Action Plan that directed federal agencies to focus on ''assessing current emissions data, addressing data gaps, identifying technologies and best practices for reducing emissions, and identifying existing authorities and incentive-based opportunities to reduce methane emissions.'' [4] Methane is a potent GHG that is 28–36 times greater than carbon dioxide (CO_2) and has an atmospheric life of about 12 years.[5] Because of methane's potency as a GHG and its atmospheric life, reducing methane emissions is one of the best ways to achieve near-term beneficial impact in mitigating global climate change.

The ''Climate Action Plan: Strategy to Reduce Methane Emissions'' [6] (the Methane Strategy) was released in March 2014. The strategy recognized the methane reductions achieved through the EPA's regulatory and voluntary programs to date. It also directed the EPA to continue to pursue emission reductions through regulatory updates and to encourage LFG energy recovery through voluntary programs.

The EPA recognized the climate benefits associated with reducing methane emissions from landfills nearly 25 years ago. The 1991 NSPS Background Information Document [7] asserted that the reduction of methane emissions from MSW landfills was one of many options available to reduce global warming. The NSPS for MSW landfills, promulgated in 1996, also recognized the climate co-benefits of controlling methane (61 FR 9917, March 12, 1996). The review and proposed revision of the MSW landfills Emission Guidelines explores additional opportunities to achieve methane reductions while acknowledging historical agency perspectives and research on climate, a charge from the President's Climate Action Plan, the Methane Strategy, and improvements in the science surrounding GHG emissions.

LFG is a collection of air pollutants, including methane and NMOC. LFG is typically composed of 50-percent methane, 50-percent CO_2, and less than 1-percent NMOC by volume. The NMOC portion of LFG can contain various organic HAP and VOC. When the Emission Guidelines and NSPS were promulgated in 1996, NMOC was selected as a surrogate for MSW LFG emissions because NMOC contains the air pollutants that at that time were of most concern due to their adverse effects on health and welfare. Today, methane's effects on climate change are also considered important. In 2012, methane emissions from MSW landfills represented 15.3 percent of total U.S. methane emissions and 1.5 percent of total U.S. GHG emissions.[8] In 2013, landfills continued to be the third largest source of human-related methane emissions among stationary source categories in the U.S., representing 18.0 percent of total methane emissions [9] and 1.7 percent of all GHG emissions (in CO_2e) in the U.S.[10] For these reasons and because additional emissions reductions can be achieved at a reasonable cost, the EPA is proposing changes to the Emission Guidelines that are based on reducing the NMOC and methane components of LFG.

B. What are the health and welfare effects of landfill gas emissions?

1. Health Impacts of VOC and Various Organic HAP

VOC emissions are precursors to both $PM_{2.5}$ and ozone formation. As documented in previous analyses (U.S. EPA, 2006,[11] 2010,[12] and 2014,[13]), exposure to $PM_{2.5}$ and ozone is associated with significant public health effects. $PM_{2.5}$ is associated with health effects, including premature mortality for adults and infants, cardiovascular morbidity such as heart attacks, and respiratory morbidity such as asthma attacks, acute bronchitis, hospital admissions and emergency room visits, work loss days, restricted activity days and respiratory symptoms, as well as welfare impacts such as visibility impairment.[14] Ozone is associated with health effects, including hospital and emergency department visits, school loss days and premature mortality, as well as ecological effects (*e.g.,* injury to

[4] Executive Office of the President, ''The President's Climate Action Plan'' June 2013. *https://www.whitehouse.gov/sites/default/files/image/president27sclimateactionplan.pdf.*

[5] The IPCC updates GWP estimates with each new assessment report, and in the latest assessment report, AR5, the latest estimate of the methane GWP ranged from 28–36, compared to a GWP of 25 in AR4. The impacts analysis in this proposal is based on AR4 instead of AR5 (*i.e.,* a GWP of 25).

[6] Executive Office of the President, ''Climate Action Plan Strategy to Reduce Methane, March 2014. *https://www.whitehouse.gov/sites/default/files/strategy_to_reduce_methane_emissions_2014–03–28_final.pdf.*

[7] Air Emissions from Municipal Solid Waste Landfills-Background Information for Proposed Standards and Guidelines, U.S. EPA (EPA–450/3–90–011a) (NTIS PB 91–197061) page 2–15.

[8] Total U.S. methane emissions were 636 Tg CO_2e in 2013. U.S. EPA ''Inventory of U.S. Greenhouse Gas Emissions and Sinks: 1990–2013.'' Available at *http://www.epa.gov/climatechange/ghgemissions/usinventoryreport.html.*

[9] Ibid, Page ES–14.

[10] Ibid, Table ES–2.

[11] U.S. EPA. *RIA. National Ambient Air Quality Standards for Particulate Matter,* Chapter 5. Office of Air Quality Planning and Standards, Research Triangle Park, NC. October 2006. Available on the Internet at *http://www.epa.gov/ttn/ecas/regdata/RIAs/Chapter%205-Benefits.pdf.*

[12] U.S. EPA. *RIA. National Ambient Air Quality Standards for Ozone.* Office of Air Quality Planning and Standards, Research Triangle Park, NC. January 2010. Available on the Internet at *http://www.epa.gov/ttn/ecas/regdata/RIAs/s1-supplemental_analysis_full.pdf.*

[13] U.S. EPA. *RIA. National Ambient Air Quality Standards for Ozone.* Office of Air Quality Planning and Standards, Research Triangle Park, NC. December 2014. Available on the Internet at *http://www.epa.gov/ttnecas1/regdata/RIAs/20141125ria.pdf.*

[14] U.S. EPA. *Integrated Science Assessment for Particulate Matter (Final Report).* EPA–600–R–08–139F. National Center for Environmental Assessment—RTP Division. December 2009. Available at *http://cfpub.epa.gov/ncea/cfm/recordisplay.cfm?deid=216546.*

vegetation and climate change).[15] Nearly 30 organic HAP have been identified in uncontrolled LFG, including benzene, toluene, ethyl benzene, and vinyl chloride.[16] Benzene is a known human carcinogen.

2. Climate Impacts of Methane Emissions

In addition to the improvements in air quality and resulting benefits to human health and the non-climate welfare effects discussed above, reducing emissions from landfills is expected to result in climate co-benefits due to reductions of the methane component of LFG. Methane is a potent GHG with a global warming potential (GWP) 28–36 times greater than CO_2, which accounts for methane's stronger absorption of infrared radiation per ton in the atmosphere, but also its shorter lifetime (on the order of 12 years compared to centuries or millennia for CO_2).[17] [18] According to the Intergovernmental Panel on Climate Change (IPCC) 5th Assessment Report, methane is the second leading long-lived climate forcer after CO_2 globally.[19]

In 2009, based on a large body of robust and compelling scientific evidence, the EPA Administrator issued the Endangerment Finding under CAA section 202(a)(1).[20] In the Endangerment Finding, the Administrator found that the current, elevated concentrations of GHGs in the atmosphere—already at levels unprecedented in human history—may reasonably be anticipated to endanger public health and welfare of current and future generations in the U.S. We summarize these adverse effects on public health and welfare briefly here.

3. Public Health Impacts Detailed in the 2009 Endangerment Finding

The 2009 Endangerment Finding documented that climate change caused by human emissions of GHGs threatens the health of Americans. By raising average temperatures, climate change increases the likelihood of heat waves, which are associated with increased deaths and illnesses. While climate change also increases the likelihood of reductions in cold-related mortality, evidence indicates that the increases in heat mortality will be larger than the decreases in cold mortality in the United States. Compared to a future without climate change, climate change is expected to increase ozone pollution over broad areas of the U.S., including in the largest metropolitan areas with the worst ozone problems, and thereby increase the risk of morbidity and mortality. Climate change is also expected to cause more intense hurricanes and more frequent and intense storms and heavy precipitation, with impacts on other areas of public health, such as the potential for increased deaths, injuries, infectious and waterborne diseases, and stress-related disorders. Children, the elderly, and the poor are among the most vulnerable to these climate-related health effects.

4. Public Welfare Impacts Detailed in the 2009 Endangerment Finding

The 2009 Endangerment Finding documented that climate change impacts touch nearly every aspect of public welfare. Among the multiple threats caused by human emissions of GHGs, climate changes are expected to place large areas of the country at serious risk of reduced water supplies, increased water pollution, and increased occurrence of extreme events such as floods and droughts. Coastal areas are expected to face a multitude of increased risks, particularly from rising sea level and increases in the severity of storms. These communities face storm and flooding damage to property, or even loss of land due to inundation, erosion, wetland submergence and habitat loss.

Impacts of climate change on public welfare also include threats to social and ecosystem services. Climate change is expected to result in an increase in peak electricity demand, Extreme weather from climate change threatens energy, transportation, and water resource infrastructure. Climate change may also exacerbate ongoing environmental pressures in certain settlements, particularly in Alaskan indigenous communities, and is very likely to fundamentally rearrange U.S. ecosystems over the 21st century. Though some benefits may balance adverse effects on agriculture and forestry in the next few decades, the body of evidence points towards increasing risks of net adverse impacts on U.S. food production, agriculture and forest productivity as temperature continues to rise. These impacts are global and may exacerbate problems outside the U.S. that raise humanitarian, trade, and national security issues for the U.S.

5. New Scientific Assessments

Since the 2009 administrative record concerning the Endangerment Finding closed following the EPA's 2010 Reconsideration Denial, the climate has continued to change, with new records being set for a number of climate indicators such as global average surface temperatures, Arctic sea ice retreat, CO_2 concentrations, and sea level rise. Additionally, a number of major, scientific assessments have been released that improve understanding of the climate system and strengthen the case that GHGs endanger public health and welfare both for current and future generations. These assessments, from the Intergovernmental Panel on Climate Change (IPCC), the U.S. Global Change Research Program (USGCRP), and the National Research Council of the National Academies (NRC), include: IPCC's 2012 *Special Report on Managing the Risks of Extreme Events and Disasters to Advance Climate Change Adaptation* (SREX) and the 2013–2014 Fifth Assessment Report (AR5), USGCRP's 2014 National Climate Assessment, *Climate Change Impacts in the United States* (NCA3), and the NRC's 2010 *Ocean Acidification: A National Strategy to Meet the Challenges of a Changing Ocean* (Ocean Acidification), 2011 *Report on Climate Stabilization Targets: Emissions, Concentrations, and Impacts over Decades to Millennia* (Climate Stabilization Targets), 2011 *National Security Implications for U.S. Naval Forces* (National Security Implications), 2011 *Understanding Earth's Deep Past: Lessons for Our Climate Future* (Understanding Earth's Deep Past), 2012 *Sea Level Rise for the Coasts of*

[15] U.S. EPA. *Air Quality Criteria for Ozone and Related Photochemical Oxidants (Final).* EPA/600/R–05/004aF–cF. Washington, DC: U.S. EPA. February 2006. Available on the Internet at *http://cfpub.epa.gov/ncea/CFM/recordisplay.cfm?deid=149923.*

[16] U.S. EPA. 1998. Office of Air and Radiation, Office of Air Quality Planning and Standards. ''Compilation of Air Pollutant Emission Factors, Fifth Edition, Volume I: Stationary Point and Area Sources, Chapter 2: Solid Waste Disposal, Section 2.4: Municipal Solid Waste Landfills''. Available at: *http://www.epa.gov/ttn/chief/ap42/ch02/final/c02s04.pdf.*

[17] IPCC, 2013: *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.)]. Cambridge University Press, Cambridge, United Kingdom and New York, NY, USA.

[18] Note that this proposal uses a GWP value for methane of 25 for CO_2 equivalency calculations, consistent with the GHG emissions inventories and the IPCC Fourth Assessment Report.

[19] IPCC, 2013: *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.)]. Cambridge University Press, Cambridge, United Kingdom and New York, NY, USA.

[19] ''Endangerment and Cause or Contribute Findings for Greenhouse Gases Under

[20] ''Endangerment and Cause or Contribute Findings for Greenhouse Gases Under Section 202(a) of the Clean Air Act,'' 74 FR 66496 (Dec. 15, 2009) (''Endangerment Finding'').

California, Oregon, and Washington: Past, Present, and Future, 2012 *Climate and Social Stress: Implications for Security Analysis* (Climate and Social Stress), and 2013 *Abrupt Impacts of Climate Change* (Abrupt Impacts) assessments.

The EPA has carefully reviewed these recent assessments in keeping with the same approach outlined in Section VIII.A of the 2009 Endangerment Finding, which was to rely primarily upon the major assessments by the USGCRP, IPCC, and the NRC to provide the technical and scientific information to inform the Administrator's judgment regarding the question of whether GHGs endanger public health and welfare. These assessments addressed the scientific issues that the EPA was required to examine were comprehensive in their coverage of the GHG and climate change issues, and underwent rigorous and exacting peer review by the expert community, as well as rigorous levels of U.S. government review.

The findings of the recent scientific assessments confirm and strengthen the conclusion that GHGs endanger public health, now and in the future. The NCA3 indicates that human health in the United States will be impacted by ''increased extreme weather events, wildfire, decreased air quality, threats to mental health, and illnesses transmitted by food, water, and disease-carriers such as mosquitoes and ticks.'' The most recent assessments now have greater confidence that climate change will influence production of pollen that exacerbates asthma and other allergic respiratory diseases such as allergic rhinitis, as well as effects on conjunctivitis and dermatitis. Both the NCA3 and the IPCC AR5 found that increasing temperature has lengthened the allergenic pollen season for ragweed, and that increased CO_2 by itself can elevate production of plant-based allergens.

The NCA3 also finds that climate change, in addition to chronic stresses such as extreme poverty, is negatively affecting indigenous peoples' health in the United States through impacts such as reduced access to traditional foods, decreased water quality, and increasing exposure to health and safety hazards. The IPCC AR5 finds that climate change-induced warming in the Arctic and resultant changes in environment (*e.g.,* permafrost thaw, effects on traditional food sources) have significant impacts, observed now and projected, on the health and well-being of Arctic residents, especially indigenous peoples. Small, remote, predominantly-indigenous communities are especially vulnerable given their ''strong dependence on the environment for food, culture, and way of life; their political and economic marginalization; existing social, health, and poverty disparities; as well as their frequent close proximity to exposed locations along ocean, lake, or river shorelines.'' [21] In addition, increasing temperatures and loss of Arctic sea ice increases the risk of drowning for those engaged in traditional hunting and fishing.

The NCA3 concludes that children's unique physiology and developing bodies contribute to making them particularly vulnerable to climate change. Impacts on children are expected from heat waves, air pollution, infectious and waterborne illnesses, and mental health effects resulting from extreme weather events. The IPCC AR5 indicates that children are among those especially susceptible to most allergic diseases, as well as health effects associated with heat waves, storms, and floods. The IPCC finds that additional health concerns may arise in low income households, especially those with children, if climate change reduces food availability and increases prices, leading to food insecurity within households.

Both the NCA3 and IPCC AR5 conclude that climate change will increase health risks facing the elderly. Older people are at much higher risk of mortality during extreme heat events. Pre-existing health conditions also make older adults susceptible to cardiac and respiratory impacts of air pollution and to more severe consequences from infectious and waterborne diseases. Limited mobility among older adults can also increase health risks associated with extreme weather and floods.

The new assessments also confirm and strengthen the conclusion that GHGs endanger public welfare, and emphasize the urgency of reducing GHG emissions due to their projections that show GHG concentrations climbing to ever-increasing levels in the absence of mitigation. The NRC assessment *Understanding Earth's Deep Past* projected that, without a reduction in emissions, CO_2 concentrations by the end of the century would increase to levels that the Earth has not experienced for more than 30 million years.[22] In fact, that assessment stated that ''the magnitude and rate of the present greenhouse gas increase place the climate system in what could be one of the most severe increases in radiative forcing of the global climate system in Earth history.'' [23] Because of these unprecedented changes, several assessments state that we may be approaching critical, poorly understood thresholds: as stated in the NRC assessment *Understanding Earth's Deep Past,* ''As Earth continues to warm, it may be approaching a critical climate threshold beyond which rapid and potentially permanent—at least on a human timescale—changes not anticipated by climate models tuned to modern conditions may occur.'' Moreover, due to the time lags inherent in the Earth's climate, the NRC Climate Stabilization Targets assessment notes that the full warming from increased GHG concentrations will not be fully realized for several centuries, underscoring that emission activities today carry with them climate commitments far into the future.

Future temperature changes will depend on what emission path the world follows. In its high emission scenario, the IPCC AR5 projects that global temperatures by the end of the century will likely be 2.6 °C to 4.8 °C (4.7 to 8.6 °F) warmer than today. Temperatures on land and in northern latitudes will likely warm even faster than the global average. However, according to the NCA3, significant reductions in emissions would lead to noticeably less future warming beyond mid-century, and therefore less impact to public health and welfare.

While rainfall may see only small globally and annually averaged changes, there are expected to be substantial shifts in where and when that precipitation falls. According to the NCA3, regions closer to the poles will see more precipitation, while the dry subtropics are expected to expand (colloquially, this has been summarized as wet areas getting wetter and dry regions getting drier). In particular, the NCA3 notes that the western U.S., and especially the Southwest, is expected to become drier. This projection is consistent with the recent observed drought trend in the West. At the time of publication of the NCA, even before the last 2 years of extreme drought in California, tree ring data were already indicating that the region might be experiencing its driest period in 800

[21] IPCC, 2014: *Climate Change 2014: Impacts, Adaptation, and Vulnerability. Part B: Regional Aspects.* Contribution of Working Group II to the Fifth Assessment Report of the Intergovernmental Panel on Climate Change [Barros, V.R., C.B. Field, D.J. Dokken, M.D. Mastrandrea, K.J. Mach, T.E. Bilir, M. Chatterjee, K.L. Ebi, Y.O. Estrada, R.C. Genova, B. Girma, E.S. Kissel, A.N. Levy, S. MacCracken, P.R. Mastrandrea, and L.L. White (eds.)]. Cambridge University Press, Cambridge, p. 1581.

[22] National Research Council, Understanding Earth's Deep Past, p. 1.

[23] Id., p. 138.

years. Similarly, the NCA3 projects that heavy downpours are expected to increase in many regions, with precipitation events in general becoming less frequent but more intense. This trend has already been observed in regions such as the Midwest, Northeast, and upper Great Plains. Meanwhile, the NRC Climate Stabilization Targets assessment found that the area burned by wildfire is expected to grow by 2 to 4 times for 1 °C (1.8 °F) of warming. For 3 °C of warming, the assessment found that nine out of 10 summers would be warmer than all but the 5 percent of warmest summers today, leading to increased frequency, duration, and intensity of heat waves. Extrapolations by the NCA also indicate that Arctic sea ice in summer may essentially disappear by mid-century. Retreating snow and ice, and emissions of carbon dioxide and methane released from thawing permafrost, will also amplify future warming.

Since the 2009 Endangerment Finding, the USGCRP NCA3 and multiple NRC assessments have projected future rates of sea level rise that are 40 percent larger to more than twice as large as the previous estimates from the 2007 IPCC 4th Assessment Report due in part to improved understanding of the future rate of melt of the Antarctic and Greenland ice sheets. The NRC Sea Level Rise assessment projects a global sea level rise of 0.5 to 1.4 meters (1.6 to 4.6 feet) by 2100, the NRC National Security Implications assessment suggests that ''the Department of the Navy should expect roughly 0.4 to 2 meters (1.3 to 6.6 feet) global average sea-level rise by 2100,'' [24] and the NRC Climate Stabilization Targets assessment states that an increase of 3 °C will lead to a sea level rise of 0.5 to 1 meter (1.6 to 3.3 feet) by 2100. These assessments continue to recognize that there is uncertainty inherent in accounting for ice sheet processes. Additionally, local sea level rise can differ from the global total depending on various factors: The east coast of the U.S. in particular is expected to see higher rates of sea level rise than the global average. For comparison, the NCA3 states that ''five million Americans and hundreds of billions of dollars of property are located in areas that are less than four feet above the local high-tide level,'' and the NCA3 finds that ''[c]oastal infrastructure, including roads, rail lines, energy infrastructure, airports, port facilities, and military bases, are increasingly at risk from sea level rise and damaging storm surges.'' [25] Also, because of the inertia of the oceans, sea level rise will continue for centuries after GHG concentrations have stabilized (though more slowly than it would have otherwise). Additionally, there is a threshold temperature above which the Greenland ice sheet will be committed to inevitable melting: according to the NCA, some recent research has suggested that even present day carbon dioxide levels could be sufficient to exceed that threshold.

In general, climate change impacts are expected to be unevenly distributed across different regions of the United States and have a greater impact on certain populations, such as indigenous peoples and the poor. The NCA3 finds climate change impacts such as the rapid pace of temperature rise, coastal erosion and inundation related to sea level rise and storms, ice and snow melt, and permafrost thaw are affecting indigenous people in the United States. Particularly in Alaska, critical infrastructure and traditional livelihoods are threatened by climate change and, ''[i]n parts of Alaska, Louisiana, the Pacific Islands, and other coastal locations, climate change impacts (through erosion and inundation) are so severe that some communities are already relocating from historical homelands to which their traditions and cultural identities are tied.'' [26] The IPCC AR5 notes, ''Climate-related hazards exacerbate other stressors, often with negative outcomes for livelihoods, especially for people living in poverty (high confidence). Climate-related hazards affect poor people's lives directly through impacts on livelihoods, reductions in crop yields, or destruction of homes and indirectly through, for example, increased food prices and food insecurity.'' [27]

Events outside the United States, as also pointed out in the 2009 Endangerment Finding, will also have relevant consequences. The NRC Climate and Social Stress assessment concluded that it is prudent to expect that some climate events ''will produce consequences that exceed the capacity of the affected societies or global systems to manage and that have global security implications serious enough to compel international response.'' The NRC National Security Implications assessment recommends preparing for increased needs for humanitarian aid; responding to the effects of climate change in geopolitical hotspots, including possible mass migrations; and addressing changing security needs in the Arctic as sea ice retreats.

In addition to future impacts, the NCA3 emphasizes that climate change driven by human emissions of GHGs is already happening now and it is happening in the United States. According to the IPCC AR5 and the NCA3, there are a number of climate-related changes that have been observed recently, and these changes are projected to accelerate in the future. The planet warmed about 0.85 °C (1.5 °F) from 1880 to 2012. It is extremely likely (>95 percent probability) that human influence was the dominant cause of the observed warming since the mid-20th century, and likely (>66 percent probability) that human influence has more than doubled the probability of occurrence of heat waves in some locations. In the Northern Hemisphere, the last 30 years were likely the warmest 30 year period of the last 1,400 years. U.S. average temperatures have similarly increased by 1.3 to 1.9 degrees F since 1895, with most of that increase occurring since 1970. Global sea levels rose 0.19 m (7.5 inches) from 1901 to 2010. Contributing to this rise was the warming of the oceans and melting of land ice. It is likely that 275 gigatons per year of ice melted from land glaciers (not including ice sheets) since 1993, and that the rate of loss of ice from the Greenland and Antarctic ice sheets increased substantially in recent years, to 215 gigatons per year and 147 gigatons per year respectively since 2002. For context, 360 gigatons of ice melt is sufficient to cause global sea levels to rise 1 millimeter (mm). Annual mean Arctic sea ice has been declining at 3.5 to 4.1 percent per decade, and Northern Hemisphere snow cover extent has decreased at about 1.6 percent per decade for March and 11.7 percent per decade for June. Permafrost temperatures have increased in most regions since the 1980s, by up to 3 °C

[24] NRC, 2011: *National Security Implications of Climate Change for U.S. Naval Forces.* The National Academies Press, p. 28.

[25] Melillo, Jerry M., Terese (T.C.) Richmond, and Gary W. Yohe, Eds., 2014: *Climate Change Impacts in the United States:* T*he Third National Climate Assessment.* U.S. Global Change Research Program, p. 9.

[26] Melillo, Jerry M., Terese (T.C.) Richmond, and Gary W. Yohe, Eds., 2014: *Climate Change Impacts in the United States: The Third National Climate Assessment.* U.S. Global Change Research Program, p. 17.

[27] IPCC, 2014: *Climate Change 2014: Impacts, Adaptation, and Vulnerability. Part A: Global and Sectoral Aspects.* Contribution of Working Group II to the Fifth Assessment Report of the Intergovernmental Panel on Climate Change [Field, C.B., V.R. Barros, D.J. Dokken, K.J. Mach, M.D. Mastrandrea, T.E. Bilir, M. Chatterjee, K.L. Ebi, Y.O. Estrada, R.C. Genova, B. Girma, E.S. Kissel, A.N. Levy, S. MacCracken, P.R. Mastrandrea, and L.L. White (eds.)]. Cambridge University Press, p. 796.

(5.4 °F) in parts of Northern Alaska. Winter storm frequency and intensity have both increased in the Northern Hemisphere. The NCA3 states that the increases in the severity or frequency of some types of extreme weather and climate events in recent decades can affect energy production and delivery, causing supply disruptions, and compromise other essential infrastructure such as water and transportation systems.

In addition to the changes documented in the assessment literature, there have been other climate milestones of note. According to the IPCC, methane concentrations in 2011 were about 1,803 parts per billion, 150 percent higher than concentrations were in 1750. After a few years of nearly stable concentrations from 1999 to 2006, methane concentrations have resumed increasing at about 5 parts per billion per year. Concentrations today are likely higher than they have been for at least the past 800,000 years. Arctic sea ice has continued to decline, with September of 2012 marking a new record low in terms of Arctic sea ice extent, 40 percent below the 1979–2000 median. Sea level has continued to rise at a rate of 3.2 mm per year (1.3 inches/decade) since satellite observations started in 1993, more than twice the average rate of rise in the 20th century prior to 1993.[28] And 2014 was the warmest year globally in the modern global surface temperature record, going back to 1880; this now means 19 of the 20 warmest years have occurred in the past 20 years, and except for 1998, the 10 warmest years on record have occurred since 2002.[29] The first months of 2015 have also been some of the warmest on record.

These assessments and observed changes make it clear that reducing emissions of GHGs across the globe is necessary in order to avoid the worst impacts of climate change, and underscore the urgency of reducing emissions now. The NRC Committee on America's Climate Choices listed a number of reasons ''why it is imprudent to delay actions that at least begin the process of substantially reducing emissions.'' [30] For example:

- The faster emissions are reduced, the lower the risks posed by climate change. Delays in reducing emissions could commit the planet to a wide range of adverse impacts, especially if the sensitivity of the climate to GHGs is on the higher end of the estimated range.
- Waiting for unacceptable impacts to occur before taking action is imprudent because the effects of GHG emissions do not fully manifest themselves for decades and, once manifest, many of these changes will persist for hundreds or even thousands of years.

In the committee's judgment, the risks associated with doing business as usual are a much greater concern than the risks associated with engaging in strong response efforts.

Methane is a precursor to ground-level ozone, a health-harmful air pollutant. Additionally, ozone is a short-lived climate forcer that contributes to global warming. In remote areas, methane is a dominant precursor to tropospheric ozone formation.[31] Approximately 50 percent of the global annual mean ozone increase since preindustrial times is believed to be due to anthropogenic methane.[32] Projections of future emissions also indicate that methane is likely to be a key contributor to ozone concentrations in the future.[33] Unlike nitrogen oxide (NO_X) and VOC, which affect ozone concentrations regionally and at hourly time scales, methane emissions affect ozone concentrations globally and on decadal time scales given methane's relatively long atmospheric lifetime compared to these other ozone precursors.[34] Reducing methane emissions, therefore, may contribute to efforts to reduce global background ozone concentrations that contribute to the incidence of ozone-related health effects.[35] [36] These benefits are global and occur in both urban and rural areas.

C. What is EPA's authority for reviewing the Emission Guidelines?

The EPA is not statutorily obligated to conduct a review of the Emission Guidelines, but has the discretionary authority to do so when circumstances indicate that it is appropriate. The EPA has determined that it is appropriate to conduct a review of and propose certain changes to the Emission Guidelines due to changes in the size, ownership and age of landfills and the types of MSW landfills with gas collection systems installed since the Emission Guidelines were promulgated in 1996 and the opportunities for significant reductions in methane and other pollutants at reasonable cost. The EPA compiled new information on MSW landfills through data collection efforts for a statutorily mandated review of the NSPS, public comments received on the NSPS proposal, and public comments received on an ANPRM for a review of the Emission Guidelines. This information allowed the EPA to conduct an assessment of current practices, emissions and potential for additional emission reductions. Information received in response to this proposed rule will allow EPA to further refine that assessment.

D. What is the purpose and scope of this action?

The purpose of this action is to (1) present the results of EPA's initial review of the Emission Guidelines, (2) propose and take comment on revisions to the Emission Guidelines based on that review, and (3) propose resolution or provide clarification regarding implementation issues that were addressed in prior proposed amendments published on May 23, 2002 (67 FR 36475) and September 8, 2006 (71 FR 53271) as they apply to existing sources. The proposed revisions appear in the proposed 40 CFR part 60, subpart Cf.[37] Although the EPA is not required to respond to comments received on the July 17, 2014, ANPRM (79 FR 41772) for the MSW landfills Emission Guidelines or comments it received on the concurrent proposal for revised NSPS for new MSW landfills in this document, the EPA is summarizing several comments it received to provide a framework and support the rationale

[28] Blunden, J., and D. S. Arndt, Eds., 2014: State of the Climate in 2013. Bull. Amer. Meteor. Soc., 95 (7), S1–S238.

[29] *http://www.ncdc.noaa.gov/sotc/global/2014/13.*

[30] NRC, 2011: *America's Climate Choices,* The National Academies Press.

[31] U.S. EPA. 2013. ''Integrated Science Assessment for Ozone and Related Photochemical Oxidants (Final Report).'' EPA–600–R–10–076F. National Center for Environmental Assessment—RTP Division. Available at *http://www.epa.gov/ncea/isa/.*

[32] Myhre, G., D. Shindell, F.-M. Bréon, W. Collins, J. Fuglestvedt, J. Huang, D. Koch, J.-F. Lamarque, D. Lee, B. Mendoza, T. Nakajima, A. Robock, G. Stephens, T. Takemura and H. Zhang, 2013: Anthropogenic and Natural Radiative Forcing. 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.)]. Cambridge University Press, Cambridge, United Kingdom and New York, NY, USA. Pg. 680.

[33] *Ibid.*

[34] *Ibid.*

[35] West, J.J., Fiore, A.M. 2005. ''Management of tropospheric ozone by reducing methane emissions.'' *Environ. Sci. Technol.* 39:4685–4691.

[36] Anenberg, S.C., et al. 2009. ''Intercontinental impacts of ozone pollution on human mortality,'' *Environ. Sci. & Technol.* 43: 6482–6487.

[37] Rather than merely updating 40 CFR part 60, subpart Cc, the existing emissions guidelines, the EPA has determined that the most appropriate way to proceed is to establish a new subpart that includes both the verbatim restatement of certain provisions in the existing emission guidelines and proposed revisions to, or the addition of, other provisions.

for the proposed revisions to the Emission Guidelines.

E. How would the proposed changes in applicability affect sources currently subject to subparts Cc and WWW?

Landfills currently subject to 40 CFR part 60, subparts Cc and WWW would be considered ''existing'' and would ultimately be affected by any changes to the Emission Guidelines resulting from this review. Any source for which construction, modification, or reconstruction commenced on or before July 17, 2014, the date of proposal of new subpart XXX, is an existing source. Under section 111, a source is either new, *i.e.,* construction, modification, or reconstruction commenced after a proposed NSPS is published in the **Federal Register** (CAA section 111(a)(1)) or existing, *i.e.,* any source other than a new source (CAA section 111(a)(6)). Since the revised Emission Guidelines apply to existing sources, any source that is not subject to new subpart XXX will be subject to the revised Emission Guidelines. Consistent with the general approach evinced by section 111, sources currently subject to subpart WWW would need to continue to comply with the requirements in that rule unless and until they become subject to more stringent requirements in the revised Emission Guidelines as implemented through a revised state or federal plan. The current Emission Guidelines, subpart Cc, refer to subpart WWW for their substantive requirements. That is, the requirements regarding the installation and operation of a well-designed and well-operated GCCS and compliance with the specified emission limits are the same in both rules. Thus, if the EPA were to finalize its proposal to revise the Emission Guidelines to increase their stringency, a landfill currently subject to 40 CFR part 60, subpart WWW would need to comply with the more stringent requirements in a revised state plan or federal plan implementing the revised Emission Guidelines (40 CFR part 60, subpart Cf). States with designated facilities would be required to develop (or revise) and submit a state plan to the EPA within 9 months of promulgation of any revisions to the Emission Guidelines unless the EPA specifies a longer timeframe in promulgating those revisions (40 CFR 60.23). Any revisions to an existing state plan and any newly adopted state plan must be established following the requirements of 40 CFR part 60, subpart B (40 CFR 60.20–60.29). Those requirements include making the state plan publically available and providing the opportunity for public discussion.

Once the EPA receives a complete state plan or plan revision, and completes its review of that plan or plan revision, the EPA will propose the plan or plan revision for approval or disapproval. The EPA will approve or disapprove the plan or plan revision no later than 4 months after the date the plan or plan revision was required to be submitted 40 CFR 60.27(b). The EPA will publish state plan approvals or disapprovals in the **Federal Register** and will include an explanation of its decision. The EPA also intends to revise the existing federal plan (40 CFR part 62, subpart GGG) to incorporate any changes and other requirements that result from the EPA's review of the Emission Guidelines. The revised federal plan will apply in states that have either never submitted a state plan or not received approval of any necessary revised state plan until such time as an initial state plan or revised state plan is approved.[38]

Because many of the landfills currently subject to 40 CFR part 60, subparts Cc and WWW are closed, the EPA is proposing several items to minimize the burden on these closed landfills, as discussed in section VIII.A of this preamble.

F. Where in the CFR will these changes appear?

The EPA is proposing to add a new subpart Cf to 40 CFR part 60, beginning at 40 CFR 60.30f. Subpart Cf would apply to landfills that have accepted waste after November 8, 1987, and were constructed, reconstructed, or modified on or before July 17, 2014. Proposed subpart Cf in 40 CFR part 60 contains a revision to the NMOC emission threshold for landfills that are not closed and addresses technical and implementation issues for all landfills subject to this subpart.

IV. Summary of Proposed Changes Based on Review of the Emission Guidelines

The EPA is proposing several changes to the Emission Guidelines following its review of the Emission Guidelines and the NSPS for MSW landfills. The EPA reviewed both landfills regulations and considered the current technology, practices, and associated monitoring, recordkeeping, and reporting requirements. The rationale for the following proposed changes is presented in sections V through IX of this preamble.

A. Control Technology Review

1. Best System of Emission Reduction

The EPA has determined that a well-designed and well operated landfill GCCS with a control device capable of reducing NMOC by 98 percent by weight continues to be the best system of emission reduction (BSER) for controlling LFG emissions. Thus, there is no change to the fundamental means of controlling LFG: Proposed 40 CFR part 60, subpart Cf requires landfill owners or operators to install a system to collect the LFG from the landfill and to route the collected gas to a combustion device or treatment system. Landfill owners or operators must submit for approval a site-specific GCCS design plan prepared by a professional engineer. The EPA is proposing 98 percent reduction of NMOC, expressed as a performance level (*i.e.,* a rate-based standard or percent control), as the appropriate BSER-based standard. Thus, 40 CFR part 60, subpart Cf requires combustion control devices to demonstrate 98 percent reduction by weight of NMOC or an outlet concentration of 20 parts per million dry volume (ppmvd) of NMOC, as hexane. Enclosed combustion devices have the option of reducing emissions to 20 ppmvd.

The EPA carefully considered whether various emission reduction techniques and BMPs that could improve collection and control of LFG emissions should be considered a component of BSER. As explained in section V.A. of this document, the EPA has concluded that the various emission reduction techniques and BMPs should not be considered to be components of BSER and, therefore, is not proposing to require their use. The EPA believes that the techniques and BMPs can, however, be useful in minimizing emissions in appropriate circumstances.

2. Criteria for Installing and Expanding GCCS

The EPA undertook an analysis of existing landfills to determine whether applying the existing 40 CFR part 60, subpart Cc and WWW size, emissions, and timing criteria for installing and operating a landfill GCCS to the population of existing MSW landfills remains the preferred approach to implementing BSER. Based on the analysis of the threshold and timing parameters, the EPA is proposing to

[38] Indian tribes may, but are not required to, seek approval for treatment in a manner similar to a state for purposes of developing a tribal implementation plan (TIP) implementing the emission guidelines. If a tribe obtains such approval and submits a proposed TIP, the EPA will use the same criteria and follow the same procedure in approving that plan as it does with state plans. The federal plan will apply to all affected facilities located in Indian country unless and until EPA approves an applicable TIP.

reduce the NMOC emission rate threshold for installing the GCCS from 50 Mg/yr to 34 Mg/yr. There are no proposed changes regarding the size of landfill covered by the Emission Guidelines or the timing of installation and expansion: The requirements would continue to apply to landfills with a design capacity greater than 2.5 million Mg and 2.5 million cubic meters, landfill owners or operators would continue to have 30 months to install and begin operating the GCCS upon the landfill exceeding the emission threshold and owners or operators would be required to expand the GCCS into new areas of the landfill within 5 years for active areas and within 2 years for areas that are closed or at final grade. However, a landfill could potentially delay the requirement to install a GCCS through the use of emission reduction techniques and BMPs in conjunction with Tier 4 monitoring. The rationale for the change to the NMOC emissions threshold is provided in section V.B of this preamble and the rationale for Tier 4 is presented in section VII.A of this preamble.

B. Proposed Changes to Monitoring, Recordkeeping, and Reporting

1. Proposed Changes to Monitoring

Surface Monitoring. The EPA proposes that all surface penetrations at existing landfills must be monitored. In proposed 40 CFR part 60, subpart Cf, landfills must monitor all cover penetrations and openings within the area of the landfill where waste has been placed and a gas collection system is required to be in place and operating according to the operational standards in proposed 40 CFR part 60, subpart Cf. Specifically, landfill owners or operators must conduct surface monitoring on a quarterly basis at 30-meter intervals and where visual observations indicate elevated concentrations of landfill gas, such as distressed vegetation and cracks or seeps in the cover and all cover penetrations.

The EPA is also considering alternative surface monitoring provisions for 40 CFR part 60, subpart Cf. The alternative provisions would reduce the walking pattern for conducting surface monitoring from 30-meter (98 feet (ft)) intervals to 25-ft intervals. The alternative would also add a methane concentration limit of 25 ppm as determined by integrated surface emissions monitoring, in addition to the instantaneous methane concentration limit of 500 ppm. This alternative would also limit surface monitoring during windy conditions. Under the alternative, the landfill would have to take corrective action if either the integrated or instantaneous limits were exceeded. More information about this approach is provided in sections VI.A and X.B of this preamble.

The EPA is also proposing an alternative site-specific emission threshold determination based on surface emission monitoring for when a landfill must install and operate a GCCS, as described in sections IV.C and VII.A, and when to cap or remove a GCCS, as described in section VIII of this preamble.

Wellhead Monitoring. The EPA proposes to remove the operational standards (*i.e.,* the requirement to meet operating limits) for temperature and nitrogen/oxygen at the wellheads and is thus removing the corresponding requirement to take corrective action for exceedances of these two parameters as discussed in section VI.B of this preamble. These adjustments to the wellhead monitoring parameters would apply to all landfills. Monthly monitoring of oxygen/nitrogen and temperature would still be required; however, fluctuations/variations in these parameters would no longer be required to be identified as exceedances in the annual reports. Instead, the landfill would maintain the records of this monthly monitoring on site and use the monitoring to inform any necessary adjustments to the GCCS and make them available to the Administrator (EPA Administrator or administrator of a state air pollution control agency or his or her designee) upon request. Landfill owners or operators would continue to be required to operate their GCCS with negative pressure and in a manner that collects the most LFG and minimizes losses of LFG through the surface of the landfill. Landfills would also continue to be required to prepare and submit to the regulating authority for approval a gas collection design plan, prepared by a professional engineer.

2. Proposed Changes to Recordkeeping and Reporting

Update and Approval of Design Plan. We propose two criteria for when an affected source must update its design plan and submit it to the Administrator for approval. A revised design plan would be submitted on the following timeline: (1) Within 90 days of expanding operations to an area not covered by the previously approved design plan; and (2) prior to installing or expanding the gas collection system in a manner other than one described in a previously approved design plan. The EPA is also taking comment on potentially establishing a third-party design plan certification program, which could reduce the burden associated with EPA or state review and approval of site-specific design plans and plan revisions, as discussed in section X.E of this preamble.

Submitting Corrective Action Timeline Requests. The EPA expects that eliminating the operational standards for oxygen/nitrogen and temperature will drastically reduce the number of requests for alternative timelines for making necessary corrections. However, landfills would still be required to maintain negative pressure at the wellhead to demonstrate a sufficient extraction rate and would be required to take corrective action in the event that a negative pressure is not maintained. Therefore, proposed 40 CFR part 60, subpart Cf outlines the timeline for correcting positive pressure. A landfill must submit an alternative corrective action timeline request to the Administrator if the landfill cannot restore negative pressure within 15 calendar days of the initial failure to maintain negative pressure and the landfill is unable to (or does not plan to) expand the gas collection within 120 days of the initial exceedance.

Electronic Reporting. The EPA is proposing electronic reporting of required performance test reports, NMOC emission rate reports, and annual reports. We also propose that industry should be required to maintain only electronic copies of the records to satisfy federal recordkeeping requirements. The proposed electronic submission and storage procedures are discussed in detail in section VI.E of this preamble.

The proposal to submit performance test data electronically to the EPA applies only to those performance tests conducted using test methods that are supported by the Electronic Reporting Tool (ERT). A listing of the pollutants and test methods supported by the ERT is available at: *http://www.epa.gov/ttn/chief/ert/index.html.* When the EPA adds new methods to the ERT, a notice will be sent out through the Clearinghouse for Inventories and Emissions Factors (CHIEF) Listserv (*http://www.epa.gov/ttn/chief/listserv.html#chief*) and a notice of availability will be added to the ERT Web site. You are encouraged to check the ERT Web site regularly for up-to-date information on methods supported by the ERT.

C. Emission Threshold Determinations

The EPA is proposing an alternative site-specific emission threshold determination for when a landfill must

install and operate a GCCS based on surface emission monitoring using EPA Method 21. This alternative emission threshold determination is referred to as ''Tier 4.'' The Tier 4 SEM demonstration would allow landfills that have modeled NMOC emission rates (using Tiers 1, 2, or 3) at or above the threshold to demonstrate that site-specific methane emissions are actually below the threshold. A landfill that can demonstrate that surface emissions are below 500 ppm for 4 consecutive quarters does not trigger the requirement to install a GCCS. Tier 4 would be based on the results of quarterly site-specific methane emissions monitoring of the entire surface of the landfill along a 30-meter (98-ft) path, in addition to monitoring areas where visual observations indicate elevated concentrations of landfill gas, such as distressed vegetation and cracks or seeps in the cover and all cover penetrations. If the landfill opts to use Tier 4 for its emission threshold determination and there is any measured concentration of methane of 500 parts per million or greater from the surface of the landfill, the owner or operator must install a GCCS, and the landfill cannot go back to using Tiers 1, 2, or 3. Because Tier 4 is based on site-specific actual surface data whereas Tiers 1–3 are based on modeled emission rates, the EPA is requiring a GCCS to be installed and operated within 30 months of a Tier 4 exceedance of 500 ppm or higher.

D. Proposed Changes To Address Closed or Non-Producing Areas

1. Subcategory for Closed Landfills

The EPA recognizes that many landfills subject to proposed subpart Cf are closed. Therefore, the EPA is proposing a separate subcategory for landfills that closed on or before August 27, 2015. These landfills would be subject to a 50 Mg/yr NMOC emission rate threshold, consistent with the NMOC thresholds in subparts Cc and WWW of 40 CFR part 60. These landfills would also be exempt from initial reporting requirements, provided that the landfill already met these requirements under subparts Cc or WWW of 40 CFR part 60. The EPA also solicits comments on an alternative approach which would expand the closed landfill subcategory to include those landfills that close within 13 months after publication of the final emission guidelines.

2. Alternative Criteria for Removing GCCS

The EPA also recognizes that many open landfills subject to proposed subpart Cf contain inactive areas that do not produce as much landfill gas. Therefore, the EPA is also proposing an alternative set of criteria for determining when it is appropriate to cap or remove a portion of the GCCS. The proposed alternative criteria for capping or removing the GCCS are: (1) The landfill is closed or an area of an active landfill is closed, (2) the GCCS has operated for at least 15 years or the landfill owner or operator can demonstrate that the GCCS will be unable to operate for 15 years due to declining gas flows, and (3) the landfill owner or operator demonstrates that there are no surface emissions of 500 ppm methane or greater for 4 consecutive quarters. With these provisions, the landfill can employ various technologies or practices to minimize surface emissions and have the flexibility to decommission or permanently cap and remove the GCCS based on site-specific surface emission readings. Note that the EPA is requesting comment on defining closed areas of open landfills as discussed in section X.A of this preamble.

E. Other Proposed Changes

1. Treated Landfill Gas

The EPA is proposing a definition of treated landfill gas and treatment systems. Specifically, the EPA proposes to define *Treated landfill gas* as landfill gas processed in a treatment system meeting the criteria in proposed 40 CFR part 60, subpart Cf and to define *Treatment system* as a system that filters, de-waters, and compresses landfill gas. The proposed definition allows the level of treatment to be tailored to the type and design of the specific combustion equipment, chemical process, or other purpose for which the landfill gas is used. These definitions would be available for all MSW landfill owners or operators. Owners or operators would identify monitoring parameters, develop a site-specific treatment system monitoring plan, and keep records that demonstrate that such parameters effectively monitor filtration, de-watering, and compression system performance necessary for the end use of the treated LFG.

Uses of Treated LFG. In addition, the EPA is proposing that the use of treated landfill gas not be limited to use as a fuel for a stationary combustion device but also for other beneficial uses such as vehicle fuel, production of high-Btu gas for pipeline injection, and use as a raw material in a chemical manufacturing process.

2. Startup, Shutdown, and Malfunction Provisions

The general provisions in 40 CFR part 60 provide that emissions in excess of the level of the applicable emissions limit during periods of SSM shall not be considered a violation of the applicable emission limit *unless otherwise specified in the applicable standard* (see 40 CFR 60.8(c)) (emphasis added). As reflected in the italicized language, an individual subpart can supersede this provision. In this action, the EPA is proposing standards in 40 CFR part 60, subpart Cf that apply at all times, including periods of startup or shutdown, and periods of malfunction. In addition, the EPA is proposing to add a recordkeeping and reporting requirement for landfill owners or operators to estimate emissions during periods when the gas collection system or control device is not operating, to determine the severity of any emissions exceedance during such periods.

3. Other Proposed Changes

We are proposing to revise the definition of ''Modification'' and ''Household waste'' ''Solid waste,'' and ''Sludge'' and to add a definition of ''Segregated yard waste'' to make clear the applicability of proposed 40 CFR part 60, subpart Cf.

Method 25A. Method 25A is being included in proposed 40 CFR part 60, subpart Cf. After reviewing the comments received on the NSPS for new landfills proposed on July 17, 2014, the EPA recognizes that the use of Method 25A is necessary for measuring outlet concentrations less than 50 ppm NMOC. Per Emission Measurement Center Guidance Document 033 (EMC GD–033—available at *http://www.epa.gov//ttn/emc/guidlnd/gd-033.pfd*), Method 25A should be used only in cases where the outlet concentration is less than 50 ppm NMOC as carbon (8 ppm NMOC as hexane).

Method 18. Method 18 is not included in proposed 40 CFR part 60, subpart Cf. While Method 18 may be used in conjunction with Method 25A for methane or specific compounds of interest, there are limitations on the number of analytes that can be reasonably quantified in measuring the sum of all NMOCs. With the possibility of 40 target analytes listed in the current landfill section of AP–42 (160 analytes in the draft landfill AP–42), Method 18 is not an appropriate or cost effective method to test all NMOCs found in landfill samples. The extensive quality

assurance required by the method makes the method technically and economically prohibitive for all the potential target analytes.

Surface monitoring intervals. The EPA is clarifying that surface emissions monitoring can be conducted at an interval less than specified in the rule text. Thus, the EPA is adding ''no more than'' in front of the specified interval in proposed 40 CFR part 60, subpart Cf (*i.e.,* at no more than 30-meter intervals).

V. Rationale for the Proposed Changes Based on GCCS Technology Review

A. Control Technology Review

1. Gas Collection and Control Systems

The EPA has determined that a well-designed and well operated GCCS that collects the LFG from the landfill and routes the collected gas to a combustion device that reduces NMOC by 98 percent by weight or an outlet concentration of 20 ppmvd of NMOC, as hexane, or to a treatment system that processes the gas for subsequent beneficial use in a process that ensures that such reductions are achieved continues to be BSER for controlling LFG emissions for both new and existing MSW landfills. As discussed in section IX.A of this preamble, LFG energy recovery has environmental benefits in controlling emissions and offsetting conventional energy sources. The BSER determination is based on the EPA's review of the NSPS for new landfills as described in the landfills NSPS proposal at 79 FR 41800–41805, as well as public comments and information received on the proposed NSPS (79 FR 41796) and public input received on both the proposed NSPS and the ANPRM (79 FR 41772) for existing landfills.

The majority of comments on this topic, received in response to the proposed NSPS (79 FR 41796), including those from industry owners and operators, landfill engineering consultants, and trade organizations, as well as input received in response to the ANPRM (79 FR 41772), agreed that a GCCS and 98 percent NMOC destruction represent BSER for MSW landfills.

2. Open Flares and Destruction Efficiencies 98 Percent Reduction

The EPA is proposing 98 percent reduction of NMOC, expressed as a performance level (*i.e.,* a rate-based standard or percent control), as the appropriate BSER-based standard. The EPA previously determined that this level was reasonable considering costs, nonair quality health and environmental impacts, and energy requirements.[39] That determination still stands today and the EPA proposes 98 percent NMOC reduction for proposed 40 CFR part 60, subpart Cf. The following combustion controls can achieve at least 98 percent destruction of NMOCs and we propose that they continue to represent BSER: Enclosed flares and incinerators, and devices that burn LFG to recover energy, such as boilers, turbines, and internal combustion engines. The EPA solicits comment on whether these devices can in fact achieve at least 98 percent destruction of NMOCs and whether uses of the LFG other than for combustion achieve equivalent reductions. Note that although the landfills rules measure NMOC, similar reductions are expected for methane.[40]

The EPA continues to believe that 98 percent reduction is appropriate because this continues to be the level achievable by demonstrated technologies. Current data are consistent with 98 percent destruction. Nonetheless, in the **Federal Register** notice for the proposed NSPS (79 FR 41803), we requested comment and additional data on the NMOC destruction efficiency of incinerators and devices that burn LFG to recover energy, such as boilers, turbines, and internal combustion engines. The EPA did not receive new data on the NMOC destruction of energy recovery devices.

Open/Non-Enclosed Flares. Both enclosed and non-enclosed (open) flares have been determined to be BSER combustion devices and these technologies continue to be used today. Commenters on the proposed landfills NSPS noted the prevalence of non-enclosed flares as both a primary and secondary control device. Commenters contend that non-enclosed flares used at landfills meeting the criteria in 40 CFR 60.18(b) have been demonstrated to have destruction efficiencies similar to enclosed flares and incinerators, and devices that burn LFG to recover energy, such as boilers, turbines, and internal combustion engines.

Commenters on the NSPS did not submit new data on flare performance. However, one commenter included a statement of a guaranteed 98 percent destruction efficiency from a commonly used flare technology provider at landfills.[41] Commenters on the proposed NSPS (79 FR 41796) and information submitted in response to the ANPRM (79 FR 41772) indicate that hundreds of open/non-enclosed flares are currently in use and that these flares are fully capable of achieving a performance standard of 98 percent reduction of NMOC. The use of open/non-enclosed flares is supported because of their inherent flexibility in addressing multiple operational components including flow rate, Btu content, other gas constituents, proximity to neighbors, and cost. The information provided also indicates that open/non-enclosed flares are simpler and therefore easier and less expensive to operate when compared with enclosed combustion devices; in addition, their simplicity makes them less susceptible to malfunctions or shutdowns. A better turndown ratio for open/non-enclosed flares was cited as an important consideration in addressing variable operating flow rates over the life of the landfill. The ability to use flares as a back up to LFG energy recovery projects is also an important consideration.

One commenter on the proposed landfills NSPS did, however, state that EPA should not consider open flares to be part of the BSER for landfills, given issues with their performance in reducing emissions. The commenter provided several references that identified the difficulty in measuring the performance of flares and poor or questionable flare performance when measurements were made, especially in windy conditions.

Based on the operational flexibilities, open flares offer landfill operators, and the flare design and operational requirements in the general provisions, the EPA is retaining the option for landfills to comply with proposed 40 CFR part 60, subpart Cf using an open

[39] Air Emissions from Municipal Solid Waste Landfills—Background Information for Final Standards and Guidelines, EPA–453/R–94–021. EPA Office of Air and Radiation/Office of Air Quality Planning and Standards, Emission Standards Division, December 1995, page 2–79.

[40] Methane is more readily combustible than other organic compounds, thus methane generally has higher destruction (or control) efficiencies than other organic compounds such as NMOC and VOC. Therefore, although compliance with the landfills regulations is expressed as a percent reduction (or reduction to a level of 20 ppmv) of NMOC, landfills that reduce NMOC by 98 percent reduce methane by a similar percentage. Two EPA programs use a 99 percent destruction efficiency for methane: the U.S. Greenhouse Gas Emissions and Sinks: 1990–2013 and the Greenhouse Gas Reporting Program. In addition, the EPA's AP–42 Compilation of Air Pollutant Emission Factors, Chapter 2.4 (1998), contains typical NMOC control efficiencies of 94–99+ for various devices used at landfills, including flares, internal combustion engines, boiler/steam turbines, and gas turbines. Draft updates (2008) to AP–42 contain typical NMOC control efficiencies for flares of 97.7 percent. Because methane is more readily combustible than NMOC, methane destruction efficiencies would be at least at this level.

[41] Comment submitted by Republic Waste Services (EPA–HQ–OAR–2003–0215–0100). Attachment 15 includes statement from John Zink Company on standard emissions for elevated flares.

flare operated in accordance with 40 CFR 60.18(b) of the general provisions. The EPA maintains that the design and operational requirements set forth in 40 CFR 60.18(b) ensure that open flares are operated to adequately destroy NMOC to a level consistent with NMOC destruction requirements for other control devices. The general provisions require a minimum heating value to ensure combustion efficiency. Specifically, 40 CFR 60.18(c)(3)(ii) requires the net heating value of the gas being combusted to be 7.45 megajoules per standard cubic meter (MJ/scm)(200 Btu/standard cubic foot) or greater if the flare is nonassisted or 11.2 MJ/scm (300 Btu/scf) or greater if the flare is steam-assisted or air-assisted. LFG typically contains 50 percent methane, but methane content generally ranges from 45 to 60 percent, depending on several factors including waste characteristics and landfill design and operation activities. This range of methane contents is equivalent to LFG heating values of approximately 450 to 600 Btu/scf, which are above the minimum net heating values outlined in 40 CFR 60.18(c)(3)(ii). Regardless of the specific methane content of LFG, the landfill owner or operator must calculate the net heating value of the LFG for comparison to the appropriate minimum net heating value defined in 40 CFR 60.18. Proposed subpart Cf (40 CFR 60.35f(d)) complements the general provision requirements by requiring three 30-minute samples obtained by Method 3C. These rule provisions ensure that the landfill gas burned in the flare has adequate heating value to ensure complete combustion, which in turn, ensures adequate NMOC destruction.

Note that flares at landfills are typically non-assisted and generally have low variability in the flow of LFG. A non-assisted, relatively constant flow of gas means there is nothing to dilute or interrupt the mixture of gas in the combustion zone. Thus, LFG and its components are destroyed more efficiently. In addition, with respect to concerns about operating flares in windy conditions, the EPA has found extremely limited data exists to indicate that wind conditions adversely affect destruction efficiencies of flares. Studies cited regarding wind conditions are based on experiments conducted in laboratory environments using very small diameter flares (4.5 to 6 inches) that are more susceptible to wind than larger diameter flares used at MSW landfills.

Although flaring remains one compliance option for collecting and controlling emissions of landfill gas, the EPA believes that the use of landfill gas to produce energy represents a higher value use and requests comments on whether there are opportunities to incentivize the use of landfill gas for energy production rather than flaring. Thus, the EPA solicits comments on incentive approaches to encourage landfill owners or operators to productively use landfill gas for energy.

3. Emission Reduction Techniques and GCCS Best Management Practices

In the ANPRM for existing landfills (79 FR 41784), the EPA presented several alternative technologies, including oxidative technologies, that could potentially serve as a component of BSER. The principle of oxidative technologies is the use of methanotrophic bacteria, commonly found in most soils and compost, to oxidize methane into water, carbon dioxide, and biomass. The EPA also presented information on various BMPs that could improve the operation and performance of GCCS and thus achieve additional emission reductions. Such BMPs included installing final cover early to increase gas collection efficiency, connecting the leachate collection and removal system (LCRS) to a GCCS, providing redundant seals on wellheads, installing horizontal collectors to facilitate earlier gas collection (*i.e.,* shorter lag times), and preventing flooded wells via the use of pumps and surface collectors. The EPA received comments both supporting and objecting to considering BMPs and oxidative control technologies as BSER.

Commenters generally pointed out the site-specific nature of the various GCCS BMPs. Several commenters disagreed that the EPA should prescribe enhanced wellhead seals in the rule and indicated that landfill operators are already employing site-specific approaches to ensure that wells are properly sealed in order to avoid exceedances of wellhead standards and maintain good gas quality. Regarding connecting to a LCRS, two commenters raised several technical site-specific issues associated with connecting an LCRS to a GCCS. Several commenters indicated that LCRS connections are typically shallow and can introduce ambient air into the GCCS, which could increase the risk of subsurface fire. According to these commenters, to reduce these risks, each individual connection point of an LCRS would need to be evaluated to determine if it was suitable for connection to a GCCS. For cover, several commenters stated that landfill cover materials must meet multiple objectives, including controlling odors, vectors, fires, and litter, shedding moisture to reduce infiltration, and supporting vegetation and compaction. One of the commenters added that Resource Conservation and Recovery Act (RCRA) and state and local regulations govern many of these cover criteria and expressed concerns that cover requirements in the Emission Guidelines could be contradictory to other requirements. These commenters indicated that as landfill owners and operators select cover materials and designs intended to promote methane oxidation, such as biocovers or cover soils, these performance objectives should be taken into consideration.

Other commenters advocated for requiring BMPs including enhanced or duplicate seals on wellheads, connections to LCRS to collect LFG, early final covers, horizontal collectors, and BMPs for dewatering gas collection wells.

With respect to oxidative covers, several commenters mentioned or provided information on articles and other literature that discuss selecting appropriate biocover materials.[42] Some of these commenters noted that the rate of oxidation depends on both material properties and site-specific operations, including moisture, temperature, material particle size, depth, and compaction. One state agency agreed that methane oxidation is well demonstrated for cover materials such as compost or yard waste, but expressed concern that methane oxidation performance in extreme climate conditions is not well known, in particular as related to daily and intermediate cover thicknesses. One commenter expressed concerns that the use of an oxidizing cover can reduce gas collection efficiency and should not be required by the Emission Guidelines.

Several commenters expressed concern with whether the long-term performance of oxidative control technologies in real-world conditions has been established for controlling landfill methane and NMOC emissions. Several commenters appreciated the EPA's willingness to recognize the role of oxidation in mitigating methane and NMOC emissions and agreed that the use of biocovers or biofilters for landfill methane oxidation is promising but did not recommend requiring oxidative controls in the Emission Guidelines. A couple of these commenters indicated that these technologies are not BSER, one of which specifically noted that biocover technology has not been sufficiently demonstrated to support a regulatory requirement under CAA

[42] Refer to pages 55–56 of the original comment letter at DCN EPA–HQ–OAR–2003–0215–0100 for references.

section 111, as that requires the EPA to determine performance standards based on adequately demonstrated technology.

The EPA recognizes the site-specific nature of GCCS design and operation and that the effectiveness of any particular BMP, therefore, depends on the site-specific circumstances of a particular MSW landfill. Therefore, while EPA strongly encourages the use of appropriate BMP to ensure the best possible design and operation of each GCCS, EPA does not consider any particular BMPs to constitute BSER and, thus, is not proposing to prescribe the use of GCCS BMPs in proposed 40 CFR part 60, subpart Cf. The EPA continues to believe that BSER remains a well-designed and well-operated GCCS and that while all such systems have certain characteristics in common, what constitutes a well-designed and well-operated GCCS will vary somewhat from landfill to landfill. While we agree with commenters that these alternative technologies and BMPs can achieve additional reductions in some circumstances, the performance, cost, and technical feasibility of these BMPs can vary greatly from site to site as well as from cell to cell even within the same site. Further, designing specific components of a GCCS (*e.g.,* biofiltration cells, prescribed wellhead seals, horizontal collectors, LCRS connection to GCCS, and surface collectors) depends on climate-specific and site-specific conditions that must be assessed on a case-by-case basis and requires engineering judgment, which is best exercised by the professional engineer that reviews the GCCS design plan for approval and the staff at each delegated authority responsible for approving the GCCS design plan.

The EPA recognizes that the effectiveness of cover practices, both early installation of final cover and the use of oxidative covers in reducing emissions is also site-specific. Therefore, the EPA does not consider these to constitute BSER and is not proposing to prescribe specific cover practices in proposed 40 CFR part 60, subpart Cf. The timing of final cover installation depends on the filling sequence and cell design of the particular landfill. For biocovers, the applicability is dependent on whether the area is closed or open. The materials allowed to be used for oxidative covers could also vary from site to site depending on state or local yard waste or compost bans, materials most favorable to the local climate, or materials that are best suited to meet multiple site-specific performance objectives in addition to reducing landfill gas emissions. The EPA also agrees with commenters who noted that long-term performance of oxidative covers has not yet been adequately demonstrated in a full-scale industrial setting at a landfill.

Based on the information and public input it received on emission reduction techniques and various BMPs that could improve collection and control of LFG emissions, the EPA proposes to conclude that BSER does not include specific GCCS BMPs, cover practices, or oxidative controls and, therefore, is not proposing to require landfills to adopt those practices in the Emission Guidelines. The EPA does not consider oxidative technologies (biocovers and biofilters) or BMPs to be part of BSER.

Although the EPA is not prescribing BMPs for GCCS or advanced cover practices in proposed 40 CFR part 60, subpart Cf, the EPA expects that two proposed rule flexibilities will encourage and promote more widespread adoption of BMPs and alternative cover technologies. First, the proposed Tier 4 surface monitoring demonstration allows a landfill owner or operator to use site-specific surface methane emissions measurements prior to determining when the installation of a regulatory compliant GCCS is required. (The Tier 4 surface emissions threshold is discussed in section VII.A of this preamble. Tier 4 may also be used to determine when the GCCS can be removed, as discussed in section VIII of this preamble.) Thus, the EPA expects that at least some landfill owners or operators will utilize oxidative cover practices or BMPs such as early gas collection or LCRS connection to minimize surface emissions.

Second, the EPA is proposing to remove the wellhead temperature and oxygen/nitrogen performance requirements and the corresponding requirement to take corrective action upon exceeding one of these parameters, thereby providing flexibility with regard to wellhead operating parameters. (The wellhead operating parameters are discussed in section VI.B of this preamble.) With the proposed wellhead operating parameter flexibility, landfill owners or operators may employ cover practices or GCCS BMPs that are suitable for their sites and GCCS designs, thereby allowing them to collect more LFG and reduce emissions without the risk of exceeding a wellhead operating parameter.

In addition to these two flexibilities, the EPA is requesting comment on other compliance flexibilities to better promote the use of GCCS BMPs that could be used in the final Emission Guidelines. To complement the compliance flexibilities proposed in these Emission Guidelines, the EPA intends to explore the creation of technical assistance documents and other tools or resources for educating the owners or operators of affected landfills and delegated authorities about how GCCS BMPs and oxidative controls can be implemented effectively to achieve additional methane and NMOC emission reductions from landfills.

4. Organics Diversion and Source Separation

LFG is a by-product of the decomposition of organic material in MSW under anaerobic conditions in landfills. The amount of LFG created primarily depends on the quantity of waste and its composition and moisture content, as well as the design and management practices at the site. Food waste, yard debris, and other organic materials continue to be the largest component of MSW discarded, with food waste comprising the largest portion. Decreasing the amount of organics disposed in landfills would reduce the amount of LFG generated.

As previously discussed in this section V.A, we are proposing to define BSER as a well-designed, installed and operated GCCS. We are proposing to conclude that organics diversion and source separation are not part of a well-designed, installed and operated GCCS and, therefore, not part of BSER. The EPA does, however, consider organics diversion and source separation advantageous because such practices reduce the amount of LFG generated and, thus, may serve as a useful compliance tool as it may allow landfill owners or operators to postpone the need to install a GCCS.

In the ANPRM for existing landfills (79 FR 41787, July 17, 2014), the EPA solicited input on methods to encourage organics diversion in any proposed revised Emission Guidelines. The EPA received a variety of ideas on how best to encourage diversion.

Many commenters generally recognized that organics diversion could achieve emission reductions from landfills. Although the ANPRM (79 FR 41772) specifically stated EPA was not soliciting comments on mandating organics diversion, many commenters cautioned against an organics diversion mandate in the Emission Guidelines, given the complexity and local nature of waste management. Specific examples of how a Tier 4 emission threshold determination and flexible wellhead operating parameters could encourage more landfills to adopt organics diversion programs were provided, as discussed in sections VI, VII, and VIII of this preamble. Several commenters

suggested that the EPA encourage partial organics diversion programs instead of focusing on rule exemptions for landfills with 100 percent diversion rates, which commenters said is impractical at this point given current infrastructure and technology limitations. One commenter touted the economic and job creation benefits of increased organic diversion rates. A state agency suggested that a separate subcategory with a higher design capacity threshold could be developed for landfills diverting organics. Another commenter suggested that the EPA should provide states the flexibility to incorporate both source control requirements and landfill diversion programs into their state plans. States and municipalities in the U.S. are increasingly moving toward the diversion of organic wastes from landfills to composting and anaerobic digesters. At least 21 states have mandated organics diversion and/or banned disposal of at least some organics (primarily yard waste) from landfills. Five of these states (California, Connecticut, Massachusetts, Rhode Island, and Vermont) have enacted legislation governing organics disposal specific to food waste.[43] In addition, state initiatives to recycle organic wastes have contributed to the growth of local residential organics collection, with 198 communities in 19 states reporting curbside collection of food scraps.[44] Between 2009 and 2014, the number of municipalities with source separated food waste collection more than doubled (from 90 to 198) and the number of affected households grew by nearly 50 percent.[45] Separate collection and treatment of organics in the commercial and institutional sectors has also risen. The nature of organics management initiatives and programs at the state and local levels varies across the country by several factors, including type of organics targeted (*e.g.,* food waste, yard waste), source of organics generation (*e.g.,* commercial, residential, institutional), implementation phase (*e.g.,* pilot projects, mandatory with fines for violations), and pricing formats (*e.g.,* ''pay-as-you-throw,'' property tax, fixed fee).

The EPA recognizes the emission reduction benefit of organics diversion from landfills. A recent study indicated that modest organics diversion programs could achieve a 9 percent reduction in LFG generation rates, while more aggressive diversion programs could yield up to 18.5 percent reduction.[46] Nevertheless, while the EPA has proposed several pathways to encourage voluntary organics diversion in this proposal, the EPA is not proposing a federal mandate of organics diversion under this proposal. There are significant barriers to issuing a federal mandate for diversion under the Emission Guidelines, including: Lack of regulations and incentives at the state and local level; limited processing and transfer capacity for organic wastes; low cost to dispose of waste in landfills relative to other waste treatment technologies; multifaceted and regional nature of the solid waste management industry; and behavioral changes needed among waste generators (individuals, businesses, and industries) to divert their organic wastes from landfills.[47]

In the 1996 Landfills NSPS Background Information Document,[48] the EPA ''decided not to include materials separation requirements within the final rules because the EPA continues to believe RCRA and local regulations are the most appropriate vehicle to address wide-ranging issues associated with solid waste management for landfills.'' The EPA continues to believe that this is the case. The EPA has, however, proposed three compliance flexibilities as discussed in sections VI.B (wellhead monitoring), VII.A (Tier 4 emission threshold determination), and VIII.B (Criteria for Capping or Removing a GCCS) of this preamble that may aid landfills in increasing organics diversion. The proposed adjustments to wellhead operating standards provide some GCCS operational flexibility to accommodate declining LFG quantity or quality resulting from modified waste composition at landfills employing an organic diversion program. The formats of the Tier 4 option and alternative set of surface emission-based GCCS removal criteria serve as built-in incentives for the landfill owner or operator to implement a variety of surface emission reduction techniques, including organics diversion.

In addition to the three compliance flexibilities discussed in sections VI.B (wellhead monitoring), VII.A (Tier 4 emission threshold determination), and VIII.B (criteria for capping or removing a GCCS), the EPA is seeking comment on other compliance flexibilities it should consider when issuing the final Emission Guidelines to encourage more organics diversion. The EPA is also requesting comment on other ways we could structure the guidelines to credit organics diversion.

In response to public input, the EPA is also seeking comment on what, if any, role organics diversion policies or measures could play in an approvable state plan. The EPA must ensure that each state plan establishes requirements for LFG emission controls that are at least as stringent as the Emission Guidelines. We are, therefore, interested in how states might demonstrate that a state plan that contains organics diversion policies and measures is at least as stringent as the Emission Guidelines. The EPA is interested in supporting state organics diversion initiatives and one way of doing this may be to provide flexibility to include such initiatives as a component of an approvable state plan. As previously stated, however, to be approvable, a state plan must be at least as stringent in its effect on LFG as the Emission Guidelines, *i.e.,* it must ensure emission reductions equivalent to those achieved with a well-designed, installed, and well-operated GCCS with a NMOC destruction efficiency of 98 percent and we request comments on how a state that relies on organics diversion could do this. The EPA, through its various voluntary programs intends to explore the creation of outreach materials, technical assistance documents, trainings, and other tools or resources for educating owners and operators of affected landfills and implementing authorities about the benefits of organics diversion and how organics diversion programs can be implemented effectively to achieve additional reductions in methane and NMOC emissions from landfills. The EPA is also exploring opportunities through its voluntary programs to recognize leadership in diverting organics from landfills.

B. What data and control costs did the EPA consider in evaluating potential changes to the timing of installing, expanding, and removing the GCCS?

To examine the potential impact of changes to the timing of initiating and removing landfill gas collection and control, the EPA updated a dataset of information for landfills, as described below, and applied a model to assess when controls were needed under the baseline control scenario (2.5 million

[43] U.S. EPA, Regulatory Impact Analysis for Proposed Emission Guidelines and Compliance Times for Municipal Solid Waste Landfills, Section 2.7, 2015.

[44] Ibid.

[45] Ibid.

[46] Stege, Alex. The Effects of Organic Waste Diversion on LFG Generation and Recovery from U.S. Landfills. SWANA's 37th Annual Landfill Gas Symposium. 2014.

[47] Ibid.

[48] Air Emissions from Municipal Solid Waste Landfills—Background Information for Proposed Standards and Guidelines, U.S. EPA (EPA–450/3–90–011a) (NTIS PB 91–197061).

Mg design capacity threshold and 50 Mg/yr NMOC threshold) as well as various regulatory options.

As discussed at 79 FR 41805 in determining whether to revise the proposed standards of performance for new MSW landfills, the EPA developed a dataset of information for landfills, which included landfill-specific data such as landfill open and closure year, landfill design capacity, landfill design area, and landfill depth. For the regulatory analysis, we approximated the number of landfills that would become subject to the regulation based on size using the reported design capacities, which were provided in units of megagrams. For purposes of rule applicability, size is based on both mass (Mg) and volume (m^3).

The EPA made several significant updates to this original dataset to evaluate the impacts of this proposal. Notably, the EPA updated the technical attributes of over 1,200 landfills based on new detailed data reported to 40 CFR part 98, subpart HH of the Greenhouse Gas Reporting Program (GHGRP). In addition, the EPA consulted with its regional offices, as well as state and local authorities, to identify landfills expected to undergo a modification within the next 5 years. According to the applicability of the proposed subpart XXX, if a landfill commenced construction on its modification after July 17, 2014, it would no longer be subject to the state or federal plans implementing these proposed revisions to the Emission Guidelines; therefore, these landfills were excluded from the impacts analysis conducted for this proposal, and their impacts will be considered as part of the final revisions to the standards of performance for new (and modified) landfills issued under 40 CFR part 60, subpart XXX. After incorporating all of the updates to the inventory and taking out the landfills expected to modify, the revised dataset now has 1,839 existing landfills that accepted waste after 1987 [49] and opened prior to 2014 [50] that are analyzed in this regulatory options analysis. A detailed discussion of updates made to the landfill dataset is in the docketed memorandum, ''Summary of Updated Landfill Dataset Used in the Cost and Emission Reduction Analysis of Landfills Regulations. 2015.''

The EPA programmed a Microsoft® Access database (hereinafter referred to as the ''model'') to calculate the costs and emission reductions associated with the regulatory options for each of the landfills in the revised dataset. The default parameters for methane generation potential (L_0), the methane generation rate (k), and the NMOC concentration used to estimate when the landfills exceeded regulatory emission thresholds and estimate emission reductions are the same as those discussed at 79 FR 41805. Similarly, the default parameters for methane generation potential (L_0), the methane generation rate (k), and the NMOC concentration used to estimate when landfills could cap or remove controls are the same as those discussed at 79 FR 41805.

When modeled landfill gas emissions for a particular landfill exceeded the emission rate threshold, the EPA assumed that collection equipment was installed and started operating at the landfill 30 months after first exceeding the threshold (as discussed in the docketed memorandum ''Methodology for Estimating Cost and Emission Impacts of MSW Landfills Regulations. 2014''). The EPA also assumed that as the landfill was filled over time, the landfill would expand the GCCS into new areas of waste placement according to an expansion lag time of 5 years for active areas and 2 years for areas that are closed or at final grade. Based on input received during public outreach to small entity representatives (SERs) as well as comments received on the proposed NSPS (79 FR 41796), most modern large landfills do not reach final grade within 2 years and a majority of landfills are complying with the 5 year provision.

Although we are proposing a new Tier 4 option as a site-specific alternative for determining if a landfill has exceeded the regulatory emission threshold (and must install controls) or if a landfill has fallen below the regulatory emission threshold (and can remove or cap controls), the number and types of landfills that could opt to use a Tier 4 option are unknown and could not be incorporated into the impacts calculated in the model. As a result, the number of landfills expected to control under each regulatory option, as well as the estimated emission reductions and costs associated with each regulatory option are based on modeled estimates of landfill gas emissions. To estimate the costs of each regulatory option, the EPA made minor changes to the cost methodology discussed in the landfills NSPS proposal at 79 FR 41805. In this analysis, cost equations were obtained from a recent update to EPA's Landfill Gas Energy Cost Model (LFGcost-Web), version 3.0, which was updated by EPA's Landfill Methane Outreach Program (LMOP) in August 2014. The EPA also updated estimates for surface emission monitoring costs based on revised estimates made available to the EPA since proposal of the NSPS in July 2014.

The capital costs continue to be presented in year 2012 dollars and annualized using an interest rate of 7 percent over the lifetime of the equipment (typically 15 years), or in the case of drill mobilization costs, the length of time between each wellfield expansion. These annualized capital costs were added to the annual operating and maintenance costs estimated by LFGcost-Web. The annualized cost includes capital related to the purchase, installation, operation and maintenance of GCCS, and costs related to testing and monitoring.

For certain landfills that were expected to generate revenue by using the LFG for energy, the EPA also estimated LFG energy recovery rates and associated costs to install and operate the energy recovery equipment as well as the revenue streams from the recovered energy. These revenues were subtracted from the annualized capital and operating and maintenance costs at each landfill in order to obtain a net cost estimate for each option in each year. The emission reduction and cost and revenue equations and assumptions are detailed in the docketed memoranda, ''Updated Methodology for Estimating Cost and Emission Impacts of MSW Landfills Regulations. 2015'' and ''Updated Methodology for Estimating Testing and Monitoring Costs for the MSW Landfill Regulations. 2015.''

C. What emissions and emission reduction programs are associated with existing MSW landfills?

The EPA estimates that the potential uncontrolled emissions from the approximately 1,800 landfills in its regulatory analysis dataset (as explained in section V.B of this preamble) are approximately 69,700 Mg NMOC and 11.0 million Mg methane (275 million $mtCO_2e$) in year 2014. In year 2025, the EPA estimates that the potential

[49] November 8, 1987, is the date on which permit programs were established under the Hazardous and Solid Waste Amendments of RCRA. This date was also selected as the regulatory cutoff in the emission guidelines for landfills no longer receiving wastes because the EPA judged states would be able to identify active facilities as of this date. The data available to EPA includes an open year without the month and so the analysis uses a cutoff year of 1988 for landfill closure year.

[50] July 17, 2014, is the proposed date of the revised NSPS for MSW landfills in 40 CFR part 60, subpart XXX. A landfill opening or commencing construction on its modification after this date would become subject to this new subpart and would not be subject to the revised emission guidelines. The EPA cannot predict the exact month a model landfill will open so the analysis uses a cutoff year of 2014.

uncontrolled emissions from the approximately 1,800 landfills in the dataset are approximately 71,400 Mg NMOC and 11.2 million Mg methane (281 million mtCO_2e). The majority of landfills in the dataset are expected to remain open through 2025, thus uncontrolled emissions are higher in 2025.

Looking beyond the modeled dataset, the Inventory of U.S. Greenhouse Gas Emissions and Sinks: 1990–2013 shows a growth in uncontrolled emissions from MSW landfills, from 205.4 teragrams (Tg) CO_2e in 1990 to 332.6 Tg CO_2e in 2013.[51] If controls are considered, emissions from landfills have decreased from 173.8 Tg CO_2e in 1990 to 97.5 Tg CO_2e in 2013 from both regulatory and voluntary programs as discussed below.[52]

1. Emission Reductions Due to Subparts Cc and WWW

To estimate the emission reductions, the EPA applied the current design capacity and NMOC emission rate thresholds in the MSW landfills regulations, and the time allowed for installing, expanding and removing the GCCS to the modeled emission estimates discussed in section V.B of this preamble.

Table 2 of this preamble summarizes the reductions anticipated to be achieved in 2025 as a result of 40 CFR part 60, subpart WWW and the federal and state plans implementing the Emission Guidelines. This table reflects the current baseline level of control at existing landfills: Landfills greater than or equal to 2.5 million Mg and 2.5 million m^3 must install a GCCS when NMOC emissions reach or exceed 50 Mg/yr. The table includes emission reductions for NMOC and methane.

TABLE 2—BASELINE EMISSION REDUCTIONS IN 2025 AT EXISTING LANDFILLS

Number of landfills affected	Number of landfills controlling	Number of landfills reporting but not controlling [a]	Annual net cost (million $2012) [b]	Annual NMOC Reductions (Mg/yr)	Annual methane reductions (million Mg/yr)	Annual CO_2e Reductions (million mt/yr)	NMOC cost effectiveness ($/Mg)	Methane cost effectiveness ($/Mg)	CO_2e cost effectiveness ($/mt)
989	574	211	299	57,300	9.0	226	5,090	32.3	1.3

[a] Excludes closed landfills from reporting count, because the closed landfills are not expected to have to submit reports in 2025. They would have already submitted their one-time reports under 40 CFR part 60, subpart WWW or the state or federal plan implementing 40 CFR part 60, subpart Cc, and because they are closed, they would also be expected to be done with NMOC reporting by 2025 because they are on the tail end of their gas curve and gas rates are declining.

[b] The annualized net cost ($299 million) is the difference between the average annualized revenue ($1,408 million) and the sum of annualized control cost ($1,700 million) and the average annualized testing and monitoring costs ($7.3 million).

The Emission Guidelines in the baseline are estimated to require control at 574 of the 989 affected landfills in 2025 and achieve reductions of 57,300 Mg/yr NMOC and 9.0 million Mg/yr methane (226 million mt/yr CO_2e). In the baseline, we estimate that 31 percent (574/1,839) of existing landfills will operate emission controls in 2025.

2. Other Programs Achieving Emission Reductions From Existing MSW Landfills

Landfill owners or operators collect LFG for a variety of reasons: To control odor, to minimize fire and explosion hazards, to recover LFG to be used for energy recovery, to sell carbon credits, and to comply with local, state, or federal air quality standards. This section of this proposed action discusses several non-EPA programs of which the EPA is aware. These reductions complement the reductions achieved by the current NSPS and Emission Guidelines framework.

a. State and Local Ordinances

The EPA is aware that some state or local ordinances require LFG combustion. The number of landfills controlling under these ordinances is unknown and is not factored into the incremental impacts analysis for this rule. The EPA is also aware that other states have rules regulating LFG combustion for odor control or safety reasons, which may be less comprehensive than the requirements of a GCCS operated in accordance with the NSPS and emission guideline requirements.

b. Market-Based Mechanisms

Many of these systems may have been installed to recover energy and generate revenue through the sale of electricity or LFG. Some landfills with voluntary systems may also receive revenues as a result of the creation of carbon credits. Data from the Climate Action Reserve indicates that more than 115 LFG capture projects in 36 states have been issued credits known as Climate Reserve Tonnes (CRTs).[53]

To estimate the number of landfills that may be controlling LFG emissions voluntarily, the EPA evaluated the most current data available and compared the list of landfills that are modeled to have installed a GCCS in 2014 in the NSPS/Emission Guidelines dataset to the list of landfills that are reported to have a GCCS installed in the LMOP or subpart HH GHGRP databases. While the NSPS/Emission Guidelines dataset estimates that approximately 620 landfills have installed controls to meet the requirements of the NSPS or an approved state plan or federal plan implementing the Emission Guidelines, the LMOP and GHGRP databases show approximately 330 additional landfills as having installed controls, resulting in approximately 950 landfills estimated to have a GCCS installed in 2014.[54] Approximately 55 percent of these 330 landfills exceed the design capacity of 2.5 million Mg,[55] but as of 2014, are not modeled to exceed the NMOC emission threshold that dictates when a GCCS must be installed. In some cases these GCCS may have been installed earlier than required by the time frames currently specified in the NSPS and Emission Guidelines. The LMOP database estimates that nearly 120 of the 330 landfills with voluntary systems have an energy recovery component. Among landfills with design capacities of 2.5 million Mg or greater, approximately 80 of the 180 landfills with a voluntary GCCS have an energy recovery component. These 330 landfills are estimated to reduce approximately 12 million Mg CO_2e in 2014. This is in addition to the 231 million Mg CO_2e reduction achieved by the current regulatory baseline. This

[51] U.S. EPA. Inventory of U.S. Greenhouse Gas Emissions and Sinks: 1990–2013. April 2015. Table 7–3. *http://www.epa.gov/climatechange/ghgemissions/usinventoryreport.html.*

[52] Ibid, Annex 3.14, Table A–265.

[53] Climate Action Reserve. Issued List of CRTs as of January 7, 2015. *https://thereserve2.apx.com/myModule/rpt/myrpt.asp?r=112.*

[54] See sections V.B and V.C of this action for a detailed discussion of the modeling database and estimated reductions under the current federal regulatory framework.

[55] For the regulatory analysis, we approximated the number of landfills that would become subject to the regulation based on size using the reported design capacities, which were provided in units of megagrams. For purposes of rule applicability size is based on both mass (Mg) and volume (m^3).

represents an additional 5 percent reduction in year 2014 coming from systems installed for reasons other than compliance with the NSPS or state and federal plans implementing the Emission Guidelines.

D. What control options did the EPA consider?

The EPA considered several factors when determining which control options would represent BSER. This section of the preamble describes those control options, which include varying the design capacity threshold, varying the NMOC emission rate threshold, and varying the time allowed to install and then expand the GCCS. To examine these options, the EPA ran several permutations of various control options on the original dataset developed for the July 2014 NSPS proposal. Each regulatory option assessed variations in the design capacity and/or emission rate thresholds, as well as changes to the initial lag time and expansion lag time. The ''initial lag time'' is the time period between when the landfill exceeds the emission rate threshold and when controls are required to be installed and started up (30 months in 40 CFR part 60, subparts Cc and WWW). The ''expansion lag time'' is the amount of time allotted for the landfill to expand the GCCS into new areas of the landfill (5 years for active areas and 2 years for areas that are closed or at final grade in 40 CFR part 60, subpart WWW).

Some options adjusted a single threshold in isolation; for example, reducing the NMOC emission threshold to between 34 and 40 Mg/yr while keeping the design capacity threshold constant at 2.5 million Mg. Other options adjusted multiple control parameters simultaneously, taking into account the relationship between the parameters. For example, recognizing that NMOC emissions are a function of waste-in-place, some options that significantly reduced the NMOC emission threshold also reduced the design capacity thresholds to 2.0 million Mg to avoid situations where the NMOC emission threshold would be exceeded long before the design capacity threshold.

In addition to adjusting design capacity and emission control thresholds, other preliminary model runs varied the initial and/or expansion lag times. These variations estimated the impacts of requiring landfill owners or operators to install or expand gas collection systems more quickly after crossing each modeled NMOC emission threshold.

In 2013, the EPA presented different model runs during Federalism consultations and small entity outreach that represented the range of variation in both the threshold and lag time parameters. For the options presented, small entity representatives (SERs) and Federalism consultation participants provided feedback to the EPA, which included implementation concerns with varying certain parameters as part of the Emission Guidelines review, as discussed in the following sections. The EPA also received comments on varying certain parameters in response to its July 2014 NSPS proposal and ANPRM for Emission Guidelines at MSW landfills (79 FR 41772) and conducted a subsequent round of Federalism consultations and small entity outreach in 2015. The EPA considered these concerns and comments received on the July 2014 NSPS proposal and ANRPM when developing a revised set of regulatory options in this proposal.

1. What are the implementation considerations with changing the design capacity criteria?

For this proposal, the EPA considered two different design capacity thresholds: No change from the current regulatory baseline of 2.5 million Mg and 2.5 million m^3, and an option that reduced the design capacity to 2.0 million Mg and 2.0 million m^3. This section of the preamble describes the resulting potential burden to regulated entities, including small entities. Potential burden includes obtaining a title V permit and calculating an annual NMOC emission rate. This discussion also considers the size threshold associated with existing state regulations, as well as collection systems that are in place on a voluntary basis.

The EPA did not consider an option to remove the design capacity criteria for this proposal so that all landfills would be affected sources no matter their size, because of the burdens of permitting and reporting at small landfills as discussed below and at 79 FR 41782. If the EPA were to remove the design capacity threshold, a significant number of additional landfills would be subject to the rule. Out of the approximately 1,800 existing landfills in the revised dataset, approximately 850 have a design capacity of less than 2.5 million Mg. Without a design capacity threshold, the NMOC emission rate would be the only criterion for installing controls. Thus, these 850 landfills would be required to begin calculating and reporting their NMOC emission rate. They would also be required to obtain a Title V permit. This would present a significant burden on both regulated landfills and delegated permitting authorities, which must be evaluated in light of potential emissions reductions.

The EPA did not analyze control options for landfills with landfill design capacities less than 2.0 million Mg in the model. Based on the revised dataset, 571 of the 623 closed landfills (91.6 percent) have a design capacity less than 2.0 million Mg. Lowering the design capacity below 2.0 million Mg would cause a large number of closed landfills to become subject to regulatory requirements including annual NMOC reporting requirements and Title V permitting requirements. Additionally depending on NMOC emission rates, a number of these landfills may also be required to install GCCS despite the fact that many of these landfills have been closed for many years and are on the downside of their gas production curve. The EPA concludes lowering the design capacity threshold below 2.0 million Mg would add regulatory requirements with minimal environmental benefit. The EPA also notes that closed landfills may have limited access to additional revenue because they are no longer collecting tipping fees and the cost for GCCS and regulatory compliance were not factored into their closure plans, they may have poor or incomplete records for estimating landfill gas emissions, and they are less likely to be permitted.

Several commenters from state agencies expressed concerns with the permitting and reporting burdens on smaller landfills and advised the EPA to retain the current design capacity threshold. Another state agency noted that MSW landfills with a design capacity greater than 0.38 million m^3 (roughly 15 percent of the current design capacity threshold in the Emission Guidelines) are required to install GCCSs under the state's HAP rule. In practice, the smallest landfills controlling under the state regulation have design capacities as low as 0.6 million Mg and 0.4 million m^3. The commenter noted that the state rule has control requirements similar to those in the Emission Guidelines, but does relax some of the monitoring requirements given the lower gas quality and smaller emission potential at older and smaller landfills.

Two commenters advocated for reducing or eliminating the design capacity criteria, referencing the state of California Landfill Methane Rule [56] (CA LMR), which requires all landfills with

[56] California Code of Regulations, title 17, subchapter 10, article 4, subarticle 6, sections 95460 to 95476, Methane Emissions from Municipal Solid Waste.

at least 450,000 tons of waste-in-place to assess whether or not GCCS is required based on other criteria, including estimated heat input capacity from the landfill gas and surface emissions monitoring data.

Based on a review of GCCS data reported in its dataset, the EPA estimates that over 900 landfills in its revised dataset have installed a GCCS for either voluntary or regulatory reasons. Of these, 17 percent of landfills with a capacity less than 2.0 Million Mg report having a GCCS installed; 47 percent of landfills with a capacity between 2.0 million Mg and 2.5 million Mg have a GCCS installed; and 76 percent of landfills with a capacity of 2.5 Million Mg or greater have a GCCS installed.[57] Thus, it appears that a significant number of landfills have installed GCCS even in the absence of federal regulation of these smaller sources, based on site-specific circumstances such as gas quality and age of waste in the landfill or areas of the landfill, access to capital, and energy recovery opportunities.

When the EPA promulgated the 2.5 million Mg and 2.5 million m^3 design capacity threshold in 1996, we considered the impact on small entities based on public comment (61 FR 9918, March 12, 1996). Today, small private entities and municipalities still tend to own smaller sized landfills, whereas larger private entities tend to own larger regional landfills. One commenter noted that reducing the design capacity may disproportionately affect local governments and small entities. Based on the ownership data reported in the revised dataset, 78 percent of landfills with a design capacity less than 2.0 million Mg are publicly owned and a similarly strong majority (71 percent) of landfills between 2.0 million Mg and 2.5 million Mg are publicly owned. For landfills with a design capacity of 2.5 million Mg or greater, the share of public ownership drops to 48 percent of landfills. Further, small entity ownership represents only approximately 8.7 percent of the landfills required to control under a state or federal plan implementing subpart Cc. If the EPA were to reduce the design capacity to 2.0 million Mg and 2.0 million m^3, approximately 730 landfills would be subject to control requirements and 70 (9.8 percent) of those are classified as small entities. If the EPA were to eliminate the design capacity criteria, approximately 749 additional existing landfills with a design capacity below 2.0 million Mg (50 percent) would become subject to the rule, of which 379 are classified as small entities, with many of these being required to install controls depending on the NMOC level selected. Further, the cost burden for installing a collection and control system is more significant for small landfills, which are more often owned by small entities, compared to larger landfills. Because certain costs to construct the gas collection system (*e.g.*, flat fees for drill rig mobilization, and monitoring and construction costs) remain relatively constant regardless of the size of the landfill, the per-acre costs to control a small landfill are more expensive than the per-acre costs to control a large landfill.

Assuming an NMOC emission threshold level of 34 Mg/yr, reducing the design capacity from 2.5 million Mg and 2.5 million m^3 to 2.0 million Mg and 2.0 million m^3 would require controls at an additional 20 landfills that have a design capacity between 2.0 million and 2.5 million Mg, as shown in Table 3 of this preamble. Requiring controls at landfills in the 2.0 million to 2.5 million Mg size range would be less cost effective because these landfills have a smaller emission reduction potential in later years. This is apparent when considering the percent changes in net control costs and corresponding emission reductions: net control costs increase by approximately 1.5 percent, while emission reductions increase by only 0.5 percent in year 2025.

The EPA does not believe that the additional burden on small entities and the disproportionate impact on publicly-owned landfills can be justified in light of the limited additional reduction in overall emissions and is, therefore, not proposing any changes to the current design capacity threshold of 2.5 million Mg and 2.5 million m^3.

2. What are the implementation considerations with reducing the NMOC threshold?

For this proposal, the EPA considered two alternative NMOC emission thresholds: 40 Mg/yr and 34 Mg/yr. The EPA recognizes that NMOC emissions are site specific, varying widely from landfill to landfill and understands that a majority of landfills currently affected by the federal and state plans implementing the Emission Guidelines conduct Tier 2 testing in order to refine their NMOC emission estimates before installing a GCCS. This proposal also allows a new site-specific Tier 4 alternative to determine when a landfill must install a GCCS, as discussed in sections IV.C and VII.A of this preamble.

Despite these variations in NMOC emissions, results from the model show that a lower NMOC emissions threshold could accelerate the schedule for installing GCCS at existing landfills and also increase the number of existing landfills required to install controls, thereby achieving additional reductions of NMOC emissions.

The EPA proposed on July 17, 2014 a lower NMOC emission threshold in the NSPS (40 Mg/yr) and discussed this alternative in the ANPRM (79 FR 41772) and several nongovernmental organizations (NGOs) and a local government entity commented in support of a reduction in the NMOC emission threshold. One state agency also provided examples of existing landfills controlling emissions in its state with estimated NMOC emission rates as low as 8.1 Mg/yr.

Two commenters expressed concern about whether landfills planning to install controls based on the current threshold of 50 Mg/yr would be financially ready to install controls at an earlier time. Other commenters expressed concern about whether landfills that have closed and decommissioned their GCCS should be pulled back into control requirements if their emissions fall between the current 50 Mg/yr threshold and a more stringent NMOC emission threshold. These commenters recommended that EPA exempt these landfills from more stringent control requirements. One of the commenters added that it would be costly to re-install or refurbish a previously shutdown system and noted that the system would likely operate for only a few more years before it once again fell below the more stringent NMOC emission threshold.

Other commenters expressed concerns that lowering the NMOC threshold would jeopardize carbon credit revenues expected from landfills emitting between 40 and 50 Mg/yr NMOC that were planning on voluntarily installing a GCCS. A state agency also expressed concern about the additional burden to delegated authorities of managing a larger group of landfills. Another state agency expressed concerns that landfills in arid areas will have difficulty continuously operating a flare at landfills with lower quality gas that emit between 40 and 50 Mg/yr. Another commenter indicated that older and closed landfills will struggle to maintain continuous operation of their flare at a lower NMOC emission threshold and will need to operate the flare with a supplemental fossil fuel.

[57] See Docket Item ''Modeling Database Containing Inputs and Impacts for Proposed Review of the MSW Emission Guidelines. 2015.''

Because of concerns with GCCS operations at landfills that have closed, the EPA evaluated whether the lower NMOC thresholds of 34 and 40 Mg/yr should apply to this subset of landfills, as discussed in section VIII.A of this preamble and presented in Table 3 of this preamble. Because of concerns about areas with low gas quality, the EPA is proposing changes to address closed or low-gas-quality areas, including changes to the criteria for capping or removing a GCCS, and providing for the use of site-specific surface emissions monitoring measurements to indicate area-specific LFG emissions, as discussed in section VIII.B of this preamble.

As shown in Table 3 of this preamble, the incremental cost to control NMOC at open landfills at a threshold of 34 Mg/yr NMOC is $17,000/Mg NMOC and $4.3/mtCO$_2$e, compared with $19,300/Mg NMOC and $4.9/mtCO$_2$e to control at both open and closed landfills. As discussed in section V.H of this preamble, an NMOC threshold of 34 Mg/yr at open landfills would achieve reductions of 2,770 Mg/year NMOC and 436,100 Mg/year methane (10.9 million mtCO$_2$e) compared to the baseline in year 2025. Based on these considerations, the EPA is proposing to reduce the NMOC emission threshold from 50 Mg/yr to 34 Mg/yr at open landfills. The EPA is proposing a separate subcategory for landfills that closed on or before August 27, 2015, as discussed in section VIII.A of this preamble.

3. What are the implementation concerns with shortening the initial or expansion lag times?

In its revised regulatory options analysis for this proposal, the EPA did not model the impacts from any regulatory options that reduced the initial or expansion lag times. To a great extent, this decision was based on our consideration of the numerous implementation and cost concerns raised by SERs and Federalism consultation participants as discussed at 79 FR 41807,[58] as well as in comments received on the 2014 MSW landfills NSPS proposal and ANPRM for Emission Guidelines (79 FR 41772). Those concerns are summarized below. The initial lag time is the time period between when the landfill exceeds the emission rate threshold and when controls are required to be installed and started, and the expansion lag time is the amount of time allotted for the landfill to expand the GCCS into new areas of the landfill.

One state agency commented that shortening the current initial lag time would not allow sufficient time to develop and approve the GCCS design plan, obtain the necessary permit, and construct the GCCS. The commenter added that one unintended consequence of shortening the initial lag time could be the inhibition of the beneficial reuse of landfill gas, since a shorter lag time may not allow time to design and approve a more complex landfill gas energy recovery system. Commenters representing affected landfills also expressed concerns that current administrative and construction lead times would make shorter lag times difficult.

Several landfill owners or operators and a state authority agreed with costs and operational and safety concerns described at 79 FR 41807 associated with increasing the number of wells in active areas as a result of shorter initial or expansion lag times. One commenter provided detailed information on costs to install and repair wells in active areas, which the commenter estimated to be between two and three times more expensive than wells installed in areas at final grade. This commenter added that 43 percent of the wells installed during 2014 were replacement wells that had to be installed as a result of damage to existing wells resulting from ongoing activities in active areas and noted that shortened lag times would only increase the number of replacement wells required. In addition to the damage to wells from filling operations, one commenter added that vertical wells in active areas require additional lateral collection pipes to be installed on rather flat slopes that are susceptible to condensate blockage and must also be replaced more frequently. Similarly, two commenters were concerned whether horizontal collectors could universally meet the need for shorter lag times in light of the susceptibility of flooding of the horizontal designs and the inability to dewater these wells with pumps.

Several commenters recognized the benefit of earlier GCCS installation, but these commenters also discussed aerobic conditions in active areas and other factors affecting gas quality that in turn create exceedances of wellhead monitoring requirements for pressure, temperature, and oxygen/nitrogen. They noted that few states have accommodated flexible monitoring alternatives for early collection systems. One state authority believed that site-specific factors other than the regulatory-driven lag times, such as safety or odor control, are already achieving earlier installation of GCCS. Three other commenters urged EPA to include early collection requirements in the proposed Emission Guidelines. One of these commenters indicated that the requirement to promote early collection could be flexible instead of a rigid adjustment to the lag times. For the reasons presented in this section as well as those detailed at 79 FR 41807, the EPA is not proposing to shorten the initial or expansion lag times in the revised Emission Guidelines. However, the EPA is requesting comment on whether the regulation should require that the GCCS design plan contain a description of early gas collection measures or best management practices, in order for the reviewing professional engineer or the Administrator to ensure that emissions are minimized. The EPA is also taking comment on whether the monitoring in the rule should be strengthened to require GCCS to be expanded in a site-specific manner as long as surface emission monitoring limits in all areas of the landfill were maintained at all times, similar to the approach taken in the California Landfill Methane Rule (LMR).

E. How did we select the proposed options?

When determining which control options would represent BSER, the EPA considered several factors: The implementation considerations identified earlier in this section of this preamble; and the incremental emission reductions, cost, and co-benefits that would be achieved beyond the baseline.

The EPA compared the annualized net cost and emission impacts in 2025 of three different regulatory options to the annualized net costs and emission impacts in 2025 of the baseline. The EPA analyzed numerous iterations of alternate control and reporting thresholds and presented potential control options to SERs and Federalism consultation participants, as described in section V.D of this preamble. After considering feedback from the SERs and Federalism consultation participants, as well as comments received on the July 2014 NSPS proposal and ANPRM (79 FR 41772), the EPA selected for consideration three regulatory alternatives as presented in Table 3 of this preamble. Table 3 summarizes the incremental impacts of each control option, when compared to the baseline. The table shows the NMOC and methane emission reductions and

[58] See also the docketed report ''Summary of Small Entity Outreach. 2014.'' (Docket Item: EPA–HQ–OAR–2003–0215–0051) and the Final Report of the Small Business Advocacy Review Panel on EPA's Planned Proposed Rules Standards of Performance for Municipal Solid Waste Landfills and Emission Guidelines and Compliance Times for Municipal Solid Waste Landfills, July 2015.

corresponding annualized net costs, when using a 7 percent discount rate, in 2025.

TABLE 3—EMISSION REDUCTIONS AND COSTS FOR CONTROL OPTIONS IN YEAR 2025 AT EXISTING LANDFILLS
[2012$]

Option	Landfills affected by proposed option [a]	Number of landfills affected [b]	Number of landfills controlling	Number of landfills reporting but not controlling	Annual net cost (million $2012)	Annual NMOC reductions (Mg/yr)	Annual methane reductions (million Mg/yr)	Annual CO_2e reductions (million mt/yr) [c]	NMOC cost effectiveness ($/Mg)	Methane cost effectiveness ($/Mg)	CO_2e cost effectiveness ($/mt) [c]
Baseline											
Baseline (2.5 million Mg design capacity/50 Mg/yr NMOC).	All	989	574	211	299	57,300	9.0	226	5,100	32.3	1.3
Incremental values vs. the Baseline											
Option (2.5 million Mg design capacity/40 Mg/yr NMOC).	Open	0	62	−62	27.0	1,720	0.27	6.8	15,800	100	4.0
	All	0	84	120	48.1	2,500	0.39	9.9	19,200	122	4.9
Option (2.5 million Mg design capacity/34 Mg/yr NMOC).	Open	0	106	−106	46.8	2,770	0.44	10.9	17,000	108	4.3
	All	0	142	62	77.6	4,030	0.64	15.9	19,300	122	4.9
Option (2.0 million Mg design capacity/34 Mg/yr NMOC).	Open	101	122	−75	51.0	3,040	0.48	12.0	16,800	107	4.3
	All	101	162	143	83.5	4,360	0.69	17.2	19,200	122	4.9

[a] Options in this table show the impacts of reducing the design capacity and/or NMOC emission threshold below baseline levels on open landfills only, and retaining the NMOC threshold of 50 Mg/yr for the closed landfill subcategory as well as reducing the design capacity and/or NMOC emission thresholds for all landfills (open and closed).
[b] Landfills are affected by the landfills Emission Guidelines based on design capacity. Once affected, they calculate and report emissions until they exceed the NMOC threshold, which triggers control requirements.
[c] Results do not include secondary CO_2 impacts.

Regulatory options. The EPA considered three regulatory options more stringent than the baseline, as presented in Table 3 of this preamble. The first option reduces the NMOC emission threshold to 40 Mg/yr. The second option further reduces the NMOC threshold to 34 Mg/yr. The third option reduces both the NMOC emission threshold to 34 Mg/yr and the design capacity threshold to 2.0 million Mg and 2.0 million m^3. We analyzed the impacts of applying each of these three more stringent thresholds to only open landfills as well as all (open and closed) landfills.

Based on the characteristics of the landfills, between approximately 60 and 160 additional landfills would be required to install controls in 2025. In addition to increasing the total number of landfills that would control their emissions, the schedule for installing controls would be accelerated for many landfills in years prior to 2025 because the landfill would exceed the lower thresholds of 34 or 40 Mg/yr NMOC earlier than the baseline, and in turn begin collecting and destroying landfill gas emissions earlier.

Emission reductions. If the EPA were to reduce the NMOC emission threshold to 34 Mg/yr at open landfills while retaining the 2.5 million Mg and 2.5 million m^3 design capacity threshold (option 2.5/34) as proposed in this rule, the corresponding emission reductions in 2025 would be 2,770 Mg/year NMOC and 436,100 Mg/year methane (10.9 million $mtCO_2e$) compared to the baseline, which represents a 4.8 percent reduction in emissions beyond the baseline. If EPA were to apply this threshold to all landfills (open and closed), the corresponding emission reductions in 2025 would be 4,030 Mg/year NMOC and 635,100 Mg/year methane (15.9 million $mtCO_2e$) compared to the baseline. Additional reductions could be achieved if the EPA combined the NMOC emission threshold of 34 Mg/yr with a lower design capacity threshold of 2.0 million Mg and 2.0 million m^3 (option 2.0/34). The corresponding emission reductions for open landfills in 2025 would be 3,040 Mg/yr NMOC and 479,100 Mg/yr methane (12 million $mtCO_2e$) compared to the baseline for open landfills, representing a 5.3 percent reduction in emissions beyond the baseline. If the EPA were to apply this lower threshold for both design capacity and NMOC to all landfills (open and closed), the corresponding emission reductions in 2025 would be 4,360 Mg/year NMOC and 687,100 Mg/year methane (17.2 million $mtCO_2e$) when compared to the baseline.

If the EPA were to reduce the NMOC threshold to 40 Mg/yr at open landfills while retaining a 2.5 million Mg and 2.5 million m^3 design capacity threshold (option 2.5/40), the emission reductions in 2025 would be 1,720 Mg/year NMOC and 270,700 Mg/year methane (6.8 million $mtCO_2e$) compared to the baseline. An emission threshold of 40 Mg/yr NMOC with a 2.5 million Mg and 2.5 million m^3 design capacity threshold represents approximately a 3 percent reduction in emissions beyond the baseline. If the EPA were to apply the 40 Mg/yr NMOC threshold to all landfills (open and closed), the corresponding emission reductions in 2025 would be 2,500 Mg/year NMOC, 270,000 Mg/year methane (6.8 million $mtCO_2e$) compared to the baseline.

The wide range in the magnitude of emission reductions among pollutants is due to the composition of landfill gas: NMOC represents less than 1 percent of landfill gas, while methane represents approximately 50 percent. CO_2e is an expression of methane in terms of the CO_2 equivalents, given the methane GWP of 25.[59]

Cost. In terms of control costs in 2025, option 2.5/34 represents an approximately 16 percent increase in control costs compared to the baseline if the threshold were reduced for open landfills only, and a 26 percent increase in control costs compared to the baseline if the threshold were reduced for all landfills (open and closed). If the EPA adopted a lower NMOC threshold of 34 Mg/yr NMOC along with a reduction in design capacity to 2.0 million Mg and 2.5 million m^3, the net cost would increase by 17 percent above the baseline if applying more stringent controls only at open landfills, and 28 percent for more stringent control of all landfills (open and closed). If the EPA adopted an NMOC threshold of 40 Mg/yr NMOC but retained a design capacity of 2.5 million Mg and 2.5 million m^3, the net cost would be 9 percent above the baseline for open landfills and a 16 percent increase for all landfills.

In terms of cost effectiveness, the overall dollar-per-Mg cost for NMOC reductions under the baseline is $5,100 per Mg NMOC and $32.3 per Mg methane as presented in Table 3 of this

[59] IPCC Fourth Assessment Report (AR4), 2007. Climate Change 2007: The Physical Science Basis. Contribution of Working Group I to the Fourth Assessment Report of the Intergovernmental Panel on Climate Change [Core Writing Team, Pachauri, R.K. and Reisinger, A. (eds.)]. IPCC, Geneva, Switzerland, 104 pp.

preamble. Under option 2.5/34, the cost effectiveness is $17,000 for controlling open landfills and $19,300 for all landfills. If the EPA adopted a lower NMOC threshold of 34 Mg/yr NMOC along with a reduction in design capacity to 2.0 million Mg and 2.0 million m^3 (option 2.0/34), the cost effectiveness is $16,800 for open landfills and $19,200 for all landfills, although the EPA recognizes that this lower cost effectiveness does not incorporate costs related to additional permitting needs for sources between 2.0 and 2.5 million Mg and m^3. Under option 2.5/40, the incremental dollar-per-Mg control cost for NMOC reductions is approximately $15,800 per Mg NMOC for open landfills and $19,200 for all landfills. The EPA welcomes additional data and comment on the issue of costs.

Proposed Option 2.5/34. Based on the emission reduction and cost discussions above and consistent with the President's Methane Strategy and the potential to achieve a near-term beneficial impact in mitigating global climate change as discussed in section III of this preamble, the EPA is proposing to reduce the NMOC threshold to 34 Mg/yr at open landfills but retain the current design capacity threshold of 2.5 million Mg and 2.5 million m^3. Lowering the NMOC threshold would result in earlier GCCS installations at landfills already subject to the rule based on their design capacity, thereby achieving additional reductions of NMOC and methane. This lowered threshold achieves reductions without adjusting the initial and expansion lag times and incurring the associated costs and implementation concerns.

Reducing the NMOC threshold from the baseline-level of 50 Mg/yr to 34 Mg/yr at open landfills would affect 106 more landfills in 2025 and would achieve an estimated 4.8 percent additional reduction in emissions of NMOC and methane compared to the baseline. These additional reductions can be achieved at very similar cost effectiveness to an NMOC threshold of 40 Mg/yr, but a level of 34 Mg/yr would achieve almost 60 percent more reductions than a level of 40 Mg/yr. In addition, the proposal is expected to result in the net reduction of 238,000 Mg CO_2, due to reduced demand for electricity from the grid as landfills generate electricity from landfill gas. Reducing the NMOC threshold to 34 Mg/yr results in an incremental reduction of methane that is equivalent to approximately 10.9 million $mtCO_2e$ per year, which compares to 19 to 33 million $mtCO_2e$ reductions from the April 16, 2012 regulations for the oil and gas industry (77 FR 49490). In addition, as discussed in section XI.G of this preamble, a level of 34 Mg/yr NMOC also results in climate-related benefits associated with methane reductions. The 2025 methane benefits vary by discount rate and range from about $310 million to approximately $1.7 billion; the mean SC–CH_4 at the 3-percent discount rate results in an estimate of about $660 million in 2025.

Further, this proposal would tighten the control device removal criteria, requiring that the controls would have to stay on until three successive tests for NMOC emissions were below the NMOC emission threshold of 34 Mg/yr instead of 50 Mg/yr, unless the landfill can demonstrate that its surface emissions are low, as discussed in section VIII.B of this preamble. Depending on the waste-in-place of the landfill at closure and other site-specific factors (*e.g.,* waste composition, climate), it may take 15 to 45 years after closure for a large modern landfill to emit less than the NMOC emission threshold, and in turn qualify for capping or removing the GCCS. Although the emission reductions associated with these later years in the landfills' lifetimes are not incorporated in the environmental and economic impacts of the baseline and options under consideration in year 2025, the lower threshold associated with this proposal would require controls to be installed for a longer period than the baseline.

Reducing the NMOC threshold also recognizes the opportunity to build upon progress to date and achieve even more reductions of landfill gas and its components, consistent with the President's Methane Strategy as discussed in section III of this preamble. Landfill gas generated from established waste (waste that has been in place for at least a year) is typically composed of roughly 50 percent methane and 50 percent CO_2 by volume, with less than 1 percent NMOC. Because the components of landfill gas are associated with substantial health, welfare, and climate effects, additional reductions of landfill gas would improve air quality and reduce health and welfare effects associated with exposure to landfill gas emissions. Note that in 2013, landfills continued to be the third largest source of human-related methane emissions in the U.S., representing 15.3 percent of total methane emissions.[60] Methane emissions represent 9.5 percent of all GHG emissions (in CO_2e) in the U.S.[61]

The EPA is not proposing to reduce the design capacity in conjunction with a reduction in the NMOC emission threshold. As discussed in section VI.E of this preamble, this option achieves only modest additional reductions (less than one percent more than the proposed option 2.5/34), but has a disproportionate impact on small entity- and municipally-owned sites, and closed landfills that are on the downward trend of generating landfill gas. Reducing the design capacity would also pose substantial burden on delegated authorities because these small entity- and municipally- owned landfills are not affected by the currently promulgated NSPS or Emission Guidelines.

Alternative Option 2.5/40. The EPA recognizes that the ownership, operating status, and other technical characteristics of individual landfills can affect the site-specific cost effectiveness of achieving additional reductions of NMOC and methane and ability to sustain the operation of GCCS that may not be readily apparent when selecting a control option based on the national aggregate values shown in Table 3 of this preamble. The EPA is soliciting comment on whether an NMOC threshold higher than 34 Mg/yr may be appropriate for all, or a subset of the existing landfills affected by this proposal, in addition to retaining the current threshold of 50 Mg/yr for the closed landfill subcategory, as proposed and discussed in section VIII.A of this preamble.

VI. Rationale for the Proposed Changes to Monitoring, Recordkeeping, and Reporting

A. Surface Emissions Monitoring Requirements

The intent of the surface monitoring provision in the existing Emission Guidelines is to maintain a tight cover that minimizes the migration of emissions through the landfill surface. Quarterly surface emissions monitoring indicates whether the cover and gas collection system are working properly. In addition to the proposed surface emission provisions discussed here, the EPA is also seeking comment on additional enhancements to surface emissions monitoring in section X.B of this preamble.

Every Cover Penetration. The EPA proposes that all surface penetrations must be monitored for existing landfills.

[60] U.S. EPA. 2013. ''Inventory of U.S. Greenhouse Gas Emissions and Sinks: 1990–2013. Executive Summary, ES–8.'' Available at *http://www.epa.gov/climatechange/ghgemissions/usinventoryreport.html.*

[61] Ibid.

Proposed 40 CFR part 60, subpart Cf specifies that the landfill must ''operate the collection system so that the methane concentration is less than 500 parts per million above background at the surface of the landfill. To determine if this level is exceeded, the owner or operator must conduct surface monitoring around the perimeter of the collection area along a pattern that traverses the landfill at 30 meter intervals and where visual observations indicate elevated concentrations of landfill gas, such as distressed vegetation and cracks or seeps in the cover and all cover penetrations.''

Commenters both supported and opposed monitoring every cover penetration. Several commenters, including two state/local agencies and one environmental organization supported monitoring every cover penetration. The state agency noted that seals around penetrations can be compromised as a result of settlement, separation from the barrier layers or boot materials, and cracking of cover soils tied into penetrations, thus, leading to detections of landfill gas during surface monitoring as reported by field staff. Several commenters opposed the requirement to monitor every cover penetration, citing significant additional cost with no or limited environmental benefit. In proposed 40 CFR part 60, subpart Cf, we are reiterating the position in the current regulation that landfills must monitor all cover penetrations and openings within the area of the landfill where waste has been placed and a gas collection system is required. Specifically, landfill owners or operators must conduct surface monitoring at 30-meter intervals and where visual observations indicate elevated concentrations of landfill gas. The EPA maintains that cover penetrations can be observed visually and are clearly a place where gas would be escaping from the cover, so monitoring of them is required by the regulatory language. The regulatory language gives distressed vegetation and cracks as an example of a visual indication that gas may be escaping, but this example does not limit the places that should be monitored by landfill staff or by enforcement agency inspectors. Thus, consistent with the EPA's historical intent and interpretation, the landfill owner or operator must monitor any openings that are within an area of the landfill where waste has been placed and a gas collection system is required.

More Precise Location Data. The EPA is proposing more specific requirements for reporting the locations where measured methane surface emissions are 500 parts per million above background. Since the Emission Guidelines were originally promulgated in 1996, EPA is aware of new, relatively inexpensive monitoring technologies that incorporate GPS technologies to more precisely identify the location of exceedances. The EPA is aware of several landfills that have been using GPS to more accurately track the location of measurements and store these data in databases. The EPA is proposing to require landfills to report the latitude and longitude coordinates of each exceedance using an instrument with an accuracy of at least 3 meters. Coordinates must be in decimal degrees with at least five decimal places. This level of accuracy and precision is consistent with the requirements proposed in Petroleum Refinery Sector Risk and Technology Review and New Source Performance Standards (79 FR 36880). This precision will also provide more transparency to inspectors reviewing site records on the location of surface emission leaks, and confirming areas of the landfill where surface monitoring activities were skipped, which may assist with targeting inspections to problem areas of the landfill. In addition, this precision will allow the landfill to overlay the coordinates of surface exceedances against maps of the GCCS to determine spatial and temporal patterns of exceedances relative to GCCS components. This specificity for location data is also being required for landfills using the Tier 4 site-specific measurement approach, as discussed in section VII.A of this preamble.

B. Wellhead Monitoring Requirements

The operational standards of the current Emission Guidelines are to operate each interior wellhead in the collection system with a negative pressure (vacuum), a landfill gas temperature less than 55 °C and with either a nitrogen level less than 20 percent or an oxygen level less than 5 percent. Since 1996, when the rules were originally promulgated, the EPA has heard concerns from both regulated entities and implementing authorities regarding the implementation of the operational standards for temperature and oxygen/nitrogen at wellheads. The EPA received feedback during 2013 and 2014 from SERs and Federalism consultation participants expressing concern that the wellhead standards were overly prescriptive. In the July 17, 2014 proposed NSPS (79 FR 41821) and the ANPRM for the Emission Guidelines (79 FR 41788), the EPA discussed whether these parameters should be adjusted in order to provide monitoring flexibility for landfills while also ensuring that the GCCS were well operated. The EPA also requested comment on what types of landfills may be eligible for adjustments to these wellhead standards; for example, the EPA asked whether only small entities, or landfills with energy recovery projects should benefit from this flexible monitoring.

In response to the July 2014 proposed NSPS (79 FR 41796) and ANPRM (79 FR 41772), many commenters questioned the need for the current wellhead operating standards for monitoring pressure, temperature, and oxygen or nitrogen to assess whether the GCCS was operating effectively.

Fire. Industry commenters recognized that the wellhead operational standards were intended to ensure the landfill gas collection system is operating properly and to avoid propagation of a subsurface fire or inhibit anaerobic decomposition, but they asserted that the standards achieve neither of the latter objectives.

Commenters asserted that the wellhead monitoring parameters are poor indicators of landfill fires or inhibited decomposition and impede proper operation of the collection system without providing any of the expected benefits. They also explained that landfill operators typically respond to high temperature and oxygen/nitrogen readings by reducing flow from the well or expanding the gas collection system. They explained that both approaches can have unintended and harmful consequences, including exacerbating a fire, and reducing the collection efficiency of the GCCS. In addition, they asserted that expanding a GCCS in an area with poor gas quality or quantity does not assist with achieving additional reductions. Commenters emphasized the difficulty of meeting the wellhead standards in areas of the landfill with declining gas flowrates or gas quality, which is more common in older or closed areas of the landfill. Several commenters stated that landfill owners already have inherent incentives to minimize fire risks in order to protect significant investments in GCCS and energy recovery infrastructure.

Flooding. Commenters both agreed and disagreed that surface emission monitoring and monthly monitoring of pressure at the wellhead are sufficient to determine if the well is inoperable or functioning below expected capacity as a result of flooding. Commenters suggested that landfill gas flowrate measurement is an established technology to assess well performance and can be measured without removing

the wellhead (unlike measurement of liquid levels) and added that flow rate measurement is required for landfills affected by the Wisconsin landfills regulations. The EPA recognizes that this parameter can be measured using the same equipment used to monitor other wellhead parameters and it is taking comment on whether to monitor this parameter in section X of this preamble.

Wellhead Monitoring and BMPs. In response to the July 17, 2014 ANPRM (79 FR 41772) and NSPS proposal, the EPA received input indicating that the currently required wellhead operating parameters (particularly oxygen/nitrogen and temperature), are barriers to, rather than a part of, a ''well operated'' GCCS and prevent proactive LFG collection practices such as connecting the GCCS to the leachate collection system and installing horizontal or other early gas collectors. Specifically, the EPA received information explaining that leachate systems are not designed to be air tight and are not constructed in refuse. The information also indicated that when leachate collection systems contain liquids, the piping that conveys the leachate may be unable to collect enough gas until the liquid is removed and that as a result, when a vacuum is applied, ambient air can be pulled in as well, leading to elevated oxygen concentrations. Accordingly, an alternative operating procedure would be needed to accommodate these higher oxygen levels. The information received indicates that regulatory agencies have been reluctant to grant these alternatives.

It was also pointed out that gas quality and quantity can vary widely from different systems and at different times within the same system, which is why horizontal collectors and leachate system components are not designed to meet the 40 CR part 60, subpart Cc and WWW operating parameters for pressure, temperature, and nitrogen/oxygen concentration. Information from a state agency indicated that some intake of ambient air is likely with leachate collectors and suggested that operators should have flexibility to decide the balance between gas flow and oxygen intake and on whether to cease extracting landfill gas or use another method. The information provided further indicated that the time delay associated with modifying a GCCS design plan or getting approval for higher operating values (HOVs) is problematic when applied to collector pipes used for seep and odor control, since operators must make these changes more quickly for safety reasons.

The EPA also received input explaining the benefits of early gas collection, such as fewer emissions and reduced odors.

Corrective Action Concerns. Under the current rules, if a landfill exceeds a wellhead operating parameter, the landfill owner or operator must initiate corrective action within 5 days and follow the timeline in 40 CFR part 60, subparts WWW and Cc for correcting the exceedance. If the exceedance cannot be corrected within the specified timeframe, the landfill owner or operator should prepare to expand the GCCS. As commenters note above, exceedances involving elevated temperature and oxygen/nitrogen concentration are often not solved by expanding the GCCS, especially in older areas. Several industry commenters, as well as a state regulatory agency, noted that wellhead corrective action often requires very site-specific and technical solutions other than expanding a GCCS and it is not reasonable to develop these actions and have them approved within the narrow timeframes allowed in the current rules. A trade association noted that most landfills have occasional exceedances of wellhead standards and that requests for HOVs are among the top five paperwork items submitted for landfill GCCS operations. Given the numerous landfills subject to control requirements as well as the fact that many landfills could have more than 100 wells installed, the trade association also noted that the prescriptive review and approval processes for HOV of wellhead operating standards present a significant burden for both the landfill and the delegated authority without an environmental benefit.

Commenters representing industry, state government, the SBA Office of Advocacy, and a trade organization called on the EPA to remove temperature and oxygen/nitrogen wellhead operating parameters from Emission Guidelines for all landfills. These commenters were all in agreement that negative pressure and surface monitoring can assure proper GCCS operation. One commenter noted that landfills with energy recovery projects will continue to monitor wellhead parameters to ensure proper equipment operation and maximize revenue from energy sales, without requiring the monitoring and reporting of these parameters under the Emission Guidelines. Another commenter noted that the regulations should provide some flexibility to accommodate declining gas generation that facilities will experience as a result of local diversion initiatives.

Two state agencies requested that the wellhead operating parameters of temperature and oxygen/nitrogen merely serve as guidance to provide flexibility, particularly to small entities. One of the commenters provided an example of monitoring requirements in its state regulation, which exempts supplemental and/or temporary odor and gas control system components (*e.g.,* leachate cleanouts, leachate recirculation, early collectors) from pressure, temperature, and oxygen/nitrogen limits. In this case, the state does not impose limits for these parameters, but it does require the landfill to monitor those parameters.

Two commenters requested that temperature and oxygen/nitrogen monitoring requirements be continued while maintaining current surface methane monitoring methods. A state agency noted that wellhead monitoring can identify subsurface biological and chemical reactions that can present a safety hazard and cannot be detected by surface emission monitoring only. An environmental organization explained that wellhead monitoring provides indicators of conditions that could lead to subsurface fires, release massive volumes of HAP, and cause terrible odors and was concerned that removing these requirements prevents the landfill and the implementing authorities from identifying early indicators of potential problems. The commenter explained that landfill owners may have difficulty meeting the requirements due to improper site management and failure to maintain tight seals, leading to too much air intake. One city also advocated for more stringent monitoring in order to more proactively identify odors or other operational concerns with a GCCS.

Based on public comments, input from small entities, and our own analysis of available information, the EPA is proposing to remove the requirement to meet operational standards for temperature and nitrogen/oxygen at wellheads and is thus also proposing to remove the corresponding requirement for corrective action for exceedances of these parameters. To ensure a well-designed and well-operated GCCS that minimizes surface emissions, the EPA is proposing to use a combination of GCCS design and approval requirements as discussed in section VI.C of this preamble, landfill surface emission monitoring requirements as discussed in section VI.A of this preamble, and continued maintenance of negative pressure at wellheads. Based on the feedback provided by commenters and our analysis of available information, the

EPA believes these adjustments provide more flexibility to landfills, can result in additional reductions of LFG emissions from other GCCS components, and will reduce the burden of corrective action on both the landfill owner or operator and the implementing authority. Based on public input, the EPA expects that eliminating the operational standards for oxygen/nitrogen and temperature will drastically reduce the number of requests for HOVs and alternative timelines for making corrections while ensuring that the GCCS continues to operate properly. The procedures for approving HOVs for wellheads not demonstrating compliance with the negative pressure standard are discussed in section VI.D of this preamble.

While the EPA is proposing to remove the requirement to meet operational standards for temperature and nitrogen/oxygen, the EPA is proposing that landfill owners or operators continue monthly monitoring and recordkeeping of the wellhead temperature and oxygen/nitrogen values, consistent with operational guidance documents and best practices for operating a GCCS in a safe and efficient manner.[62] [63] Based on our evaluation of commenters' concern that the oxygen/nitrogen and temperature operational standards can be a limiting factor in promoting earlier and more robust collection of LFG, the EPA is proposing to no longer require the landfill to take corrective action if the monitoring of these parameters demonstrates that a particular value or values is/are exceeded. The EPA is proposing that landfill owners or operators continue monitoring these parameters because, as several industry commenters and regulatory agencies stated, the measurement of these parameters can still serve as useful guidance for landfill operators and landfill gas energy project operators because they assess GCCS performance and thus help to periodically adjust or ''tune'' the GCCS to minimize LFG emissions and maintain safe operating conditions at the landfill. The equipment used to monitor wellheads commonly includes these parameters, so these parameters can be measured at the same time the technician monitors wellhead pressure without imposing additional burden. The results of this monthly wellhead monitoring will now be kept as records on site because the EPA continues to believe these data will be useful for implementing authorities when approving modifications to the original GCCS design plan, or when conducting inspections of the site.

The requirement to maintain negative pressure at each wellhead ensures that gas is being routed to a GCCS that was designed and built in accordance with a GCCS design plan that has been approved by a professional engineer. The EPA believes these wellhead standards, together with the surface emission monitoring requirements, are effective and limit the possibility of surface emissions of LFG. This approach also allows landfills and state regulators the time and flexibility to determine the appropriate response for adjusting wellfield operations, as needed, without imposing overly prescriptive requirements. This approach also provides increased flexibility for landfills to install supplemental and temporary gas collection components to achieve additional reductions of LFG without the risk of exceeding oxygen/nitrogen or temperature operational standards.

C. Requirements for Updating the Design Plan

The EPA is proposing criteria for when an affected source must update its design plan and submit it to the implementing authority for approval. We are proposing that a revised design plan must be submitted as follows: (1) Within 90 days of expanding operations to an area not covered by the previously approved design plan, and (2) prior to installing or expanding the gas collection system in a manner other than as described in a previously approved design plan.

The EPA is proposing site-specific design plan review and approval procedures that recognize the unique site-specific topography, climate, and other factors affecting the design of the GCCS. However, the EPA solicits comment on ways to streamline the design plan submission and approval procedures as part of its review of the Emission Guidelines. Examples of streamlining may include the potential development of a process by which approved alternative operating parameters could be automatically linked to updates of design plans or development of a process by which alternative operating parameters and updated design plans could be approved on a similar schedule.

D. Submitting Corrective Action Timeline Requests

We have included provisions in proposed 40 CFR part 60, subpart Cf (40 CFR 60.36f(a)(3)) to clarify our intent that agency approval of corrective action timelines is required only if a landfill does not fix an exceedance in 15 days and is unable to or does not plan to expand the gas collection system within 120 days. The EPA is clarifying that ''expansion'' of the GCCS means a permanent change that increases the capacity of the GCCS, such as increasing the size of header pipes, increasing the blower sizes and capacity, and increasing the number of wells. Excluding system expansion, all other types of corrective actions expected to exceed 15 calendar days should be submitted to the agency for approval of an alternate timeline. In addition, if a landfill owner or operator expects the system expansion to exceed the 120-day allowance period, it should submit a request and justification for an alternative timeline. We have not proposed a specific schedule for submitting these requests for alternative corrective action timelines because investigating and determining the appropriate corrective action, as well as the schedule for implementing the corrective action, will be site specific and depend on the reason for the exceedance. We clarify that a landfill should submit an alternative timeline request as soon as possible (*i.e.,* as soon as the owner or operator knows that it would not be able to correct the exceedance in 15 days or expand the system in 120 days) to avoid being in violation of the rule. If the landfill were to wait until 120 days after the exceedance to submit an alternative timeline, then by the time the regulatory agency has the chance to review the timeline and determine if it is approvable, the landfill will already be in violation of the requirement to expand the system within 120 days. After submitting the alternative timeline request, the landfill should work with its permitting authority to communicate the reasons for the exceedances, status of the investigation, and schedule for corrective action.

To address implementation concerns associated with the time allowed for corrective action, the EPA requests comment on an alternative that extends the requirement for notification from 15 days to as soon as practicable, but no later than 60 days from when an exceedance is identified. Many requests for an alternative compliance timeline express the need for additional time to make necessary repairs to a well that requires significant construction activities. Extending the time period to as soon as practicable, but no later than 60 days, may reduce the burden associated with the approval of an alternative timeline and ensure

[62] *http://www.epa.ohio.gov/portals/27/engineer/eguides/guide78.pdf.*

[63] *http://www.nrel.gov/docs/legosti/fy97/23070.pdf.*

sufficient time for correction without significant environmental detriment. If the EPA were to extend the time period to as soon as practicable, but no later than 60 days, then the EPA is also considering the removal of the provision to submit an alternative timeline for correcting the exceedance. Thus, by no later than day 60, the landfill would have to either have completed the adjustments and repairs necessary to correct the exceedance, or be prepared to have the system expansion completed by day 120. The EPA is also requesting input on whether 60 days is the appropriate amount of time to allow owners or operators to make the necessary repairs.

E. Electronic Reporting

In this proposal, the EPA is describing a process to increase the ease and efficiency of performance test data submittal while improving data accessibility. Specifically, the EPA is proposing that owners or operators of MSW landfills submit electronic copies of required performance test and performance evaluation reports by direct computer-to-computer electronic transfer using the EPA-provided software. The direct computer-to-computer electronic transfer is accomplished through the EPA's Central Data Exchange (CDX) using the Compliance and Emissions Data Reporting Interface (CEDRI). The CDX is the EPA's portal for submittal of electronic data. The EPA-provided software is called the Electronic Reporting Tool (ERT), which is used to generate electronic reports of performance tests and evaluations. The ERT generates an electronic report package that will be submitted using the CEDRI. The submitted report package will be stored in the CDX archive (the official copy of record) and the EPA's public database called WebFIRE. All stakeholders will have access to all reports and data in WebFIRE and accessing these reports and data will be very straightforward and easy (see the WebFIRE Report Search and Retrieval link at *http://cfpub.epa.gov/webfire/index.cfm?action=fire.searchERTSubmission*). 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.* A description of the WebFIRE database is available at *http://cfpub.epa.gov/oarweb/index.cfm?action=fire.main.*

The proposal to submit performance test data electronically to the EPA applies only to those performance tests conducted using test methods that are supported by the ERT. The ERT supports most of the commonly used EPA reference methods. A listing of the pollutants and test methods supported by the ERT is available at *http://www.epa.gov/ttn/chief/ert/index.html.*

We believe that industry would benefit from this proposed approach to electronic data submittal. Specifically, by using this approach, industry will save time in the performance test submittal process. Additionally, the standardized format that the ERT uses allows sources to create a more complete test report resulting in less time spent on data backfilling if a source failed to include all data elements required to be submitted. Also through this proposal, industry may only need to submit a report once to meet the requirements of the applicable subpart because stakeholders can readily access these reports from the WebFIRE database. This also 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 retained in hard copy, thereby, reducing staff time needed to coordinate these records.

Since the EPA will already have performance test data in hand, another benefit to industry is that fewer or less substantial data collection requests in conjunction with prospective required residual risk assessments or technology reviews will be needed. This would result in a decrease in staff time needed to respond to data collection requests.

State, local, and tribal air pollution control agencies will also benefit from having electronic versions of the reports they are now receiving because they will be able to conduct a more streamlined and accurate review of electronic data submitted to them. For example, the ERT would allow for an electronic review process, rather than a manual data assessment, making review and evaluation of the source provided data and calculations easier and more efficient. In addition, the public will also benefit from electronic reporting of emissions data because the electronic data will be easier for the public to access. How the air emissions data are collected, accessed, and reviewed will be more transparent for all stakeholders.

One major advantage of the proposed submittal of performance test data through the ERT is a standardized method to compile and store much of the documentation required to be reported by this rule. The ERT clearly states what testing information would be required by the test method and has the ability to house additional data elements that might be required by a delegated authority.

In addition, the EPA must have performance test data to conduct effective reviews of CAA section 111 standards, as well as for many other purposes, including compliance determinations, emission factor development, and annual emission rate determinations. In conducting these required reviews, the EPA has found it ineffective and time consuming, not only for us, but also for regulatory agencies and source owners or operators, to locate, collect, and submit performance test data. In recent years, stack testing firms have typically collected performance test data in electronic format, making it possible to move to an electronic data submittal system that would increase the ease and efficiency of data submittal and improve data accessibility.

A common complaint from industry and regulators is that emission factors are outdated or not representative of a particular source category. With timely receipt and incorporation of data from most performance tests, the EPA would be able to ensure that emission factors, when updated, represent the most current range of operational practices. Finally, another benefit of the proposed data submittal to WebFIRE electronically is that these data would greatly improve the overall quality of existing and new emissions factors by supplementing the pool of emissions test data for establishing emissions factors

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 would save industry, state/local/tribal agencies, and the EPA significant time, money, and effort while also improving the quality of emission inventories, air quality regulations, and enhancing the public's access to this important information.

VII. Rationale for Proposed Alternative Emission Threshold Determination Techniques

The EPA is proposing an emission threshold determination based on site-specific surface emissions monitoring (SEM) that provides flexibility for when a landfill must install and operate a GCCS. If the owner or operator limits landfill surface methane emissions and can demonstrate that those emissions are below 500 ppm methane for 4 consecutive quarters, then the requirement to install a GCCS is not triggered even though estimates using Tiers 1, 2, and/or 3 may show that the landfill's annual NMOC emissions have exceeded the regulatory threshold. In

addition, the Tier 4 surface emission approach could also be used as one of the criteria for determining when a GCCS can be removed or partially removed or decommissioned at closed landfills or closed areas of active landfills, as discussed in sections IV.D and VIII.C of this preamble.

The idea to measure site-specific surface emissions to help determine the timing of GCCS installation was presented while the EPA was conducting outreach with small entities during its review of the landfills regulations in 2014. Small entities recommended a new Tier 4 surface emission demonstration to allow increased flexibility for landfills that exceed modeled NMOC emission rates to demonstrate that site-specific methane emissions are actually low prior to being required to install a GCCS. In addition, the Environmental Defense Fund (EDF) presented the idea of a surface concentration threshold as one of many potential alternatives to increase emission reductions from landfills in its January 2013 whitepaper.[64] The EPA presented and solicited comments on potential Tier 4 procedures in both the NSPS proposal for new landfills and the ANPRM for existing landfills (79 FR 41772).

Many commenters, representing both industry and environmental interests, supported the Tier 4 SEM approach for determining when a GCCS must be installed. These commenters stated that the option to conduct site-specific measurements using SEM is a more accurate indication of when gas collection is necessary to reduce emissions, compared to modeled emission rates. However, one commenter on the NSPS proposed rule opposed the inclusion of a Tier 4 option for new landfills, stating that it allows a subset of new landfills to delay methane capture requirements when these landfills will be required to install a GCCS in the future and should have a GCCS designed and installed during landfill construction. Other commenters expressed concern about state agencies lack of experience and time to determine whether Tier 4 monitoring requires a GCCS to be installed and requested guidance for Tier 4 implementation procedures.

Many commenters identified the potential benefits of a Tier 4 option. Commenters representing both industry and environmental interests noted that the SEM option will encourage landfill owners and operators to implement methane reduction practices, such as the use of oxidative landfill covers, organic waste diversion, and interim gas control measures (horizontal gas collectors, connecting a leachate collection recovery system into a GCCS), noting that such practices can be implemented more quickly and more cost-effectively than a GCCS installed in accordance with the design plan requirements of the current Emission Guidelines. Commenters indicated that a SEM method reflects actual site-specific emissions data that account for gas generation differentials attributed to climate variations, waste acceptance rates, and cover soil materials that vary between landfills in different regions of the U.S. One commenter indicated that the use of SEM in determining the need to install a GCCS would reduce costs and energy consumption for landfills otherwise required to install controls, that would not generate a sufficient amount of gas to support a collection system but would remain below surface emission thresholds based on site-specific measurements. Another commenter added that a Tier 4 approach grants additional flexibility and a potential cost savings compared to the Tier 2 method, but cautioned that a surface monitoring methodology needs to be developed that is functional during windy conditions.

Commenters also considered how to implement a Tier 4 approach, including the hierarchy of the new tier relative to the existing tiers, procedures for conducting the SEM, the level of the appropriate exceedance, and what to do upon an exceedance. Several commenters suggested that Tier 4 could be employed at any point following a Tier 1 or Tier 2 test where the calculated NMOC emission rate is greater than the NMOC threshold for installing a GCCS. These same commenters suggested that landfill owners and operators have the option to perform Tier 4 SEM testing in the same areas and using the same methods currently established in 40 CFR part 60, subpart WWW. These commenters recommended that if an exceedance occurs during Tier 4 SEM testing, then landfill owners or operators should follow the same procedures and timelines for remediation and re-monitoring as outlined in subpart WWW. These commenters further suggested that if an exceedance cannot be remediated under the existing subpart WWW procedures, then the landfill would be required to prepare a GCCS design plan within 1 year of the initial exceedance and install a GCCS within the monitored area within 30 months of the initial exceedance. These commenters further suggested that if during the initial monitoring event methane surface emissions do not exceed 500 ppm over background, then the installation of a GCCS is not required and routine SEM should be performed until the landfill or area of the landfill is closed. One commenter requested that the EPA propose a surface concentration level of 200 ppm and indicated that this level provides empirical confirmation that the landfill is ready to install a GCCS.

After considering public comments and input from small entity outreach, the EPA is proposing Tier 4 SEM procedures for determining when a landfill must install a GCCS. Tier 4 allows landfill owners or operators to demonstrate that site-specific surface methane emissions are low. Under Tier 4, as proposed in this proposed rule, if the site-specific surface methane emissions are below 500 ppm for 4 consecutive quarters, then the requirement to install and operate a GCCS has not been triggered even in circumstances where emission estimates using Tiers 1, 2, and/or 3 are above the regulatory threshold. However, any quarterly surface emissions value over 500 ppm would trigger the requirement to install and begin operating a GCCS. If the landfill opts to use Tier 4 for its emission threshold determination and there is any measured concentration of methane of 500 parts per million or greater from the surface of the landfill, the owner or operator must install a GCCS, and it cannot go back to using Tiers 1, 2 or 3. The landfill owner or operator would be required to submit a design plan within 1 year of reporting the surface emissions value over 500 ppm to the implementing authority in an annual report and would be required to install and start up a GCCS within 30 months of reporting the surface emissions value over 500 ppm.

The SEM demonstration would be conducted using the SEM procedures described in sections IV.B and VI.A of this preamble. SEM would be conducted around the perimeter of the landfill and the required traverse every 30 meters for the entire landfill. Note that the EPA is requesting comment on enhanced surface monitoring, including the 30 meter traverse pattern, in section X.B of this preamble. The Tier 4 provisions can be utilized by any landfill that has exceeded the design capacity threshold. The Tier 4 provisions provide an incentive for a landfill owner or operator to keep surface emissions low as described later in this section.

Under this proposal, if a landfill exceeds the modeled NMOC emission

[64] Environmental Defense Fund. Recommendations and Considerations for EPA's Forthcoming Revisions to Section 111 Standards for MSW Landfills. January 2, 2013. See EPA–HQ–OAR–2003–0215–0050.

rate under Tier 1, then the landfill may choose to estimate the NMOC emission rate by using the Tier 2 or 3 procedures or measure actual surface emissions using Tier 4. If a landfill failed a Tier 4 test, the landfill would trigger the requirement to submit a design plan and to install and operate a GCCS. However, if a landfill failed a Tier 2 or 3 test, proposed 40 CFR part 60, subpart Cf allows the landfill to test using a ''higher'' tier, including Tier 4. For example, if a landfill exceeds the proposed NMOC emission rate of 34 Mg/yr using Tier 2, then the landfill may choose to calculate the NMOC emission rate using Tier 3, or the landfill may choose to demonstrate that site-specific surface methane emissions are below 500 ppm using Tier 4. Tier 1 is the most conservative method for estimating NMOC emissions and models NMOC emissions based on default values for methane generation rate (k), methane generation potential (Lo), and NMOC concentration (C_{NMOC}). Tier 1 takes the least effort and expense to conduct, but tends to overestimate NMOC emissions given the conservative default parameters. A landfill would likely use Tier 1 for its initial estimate of NMOC emissions. Tier 2 models NMOC emissions based on the same default values for methane generation rate and methane generation potential, which are in turn based on waste composition and climate data, but allows the landfill owner or operator to determine a site-specific NMOC concentration. Under Tier 2, landfills would incur a more substantial cost to determine the site-specific NMOC concentration. Tier 3 also models NMOC emissions, but adds another site-specific measurement for a methane generation rate using Method 2E. Under Tier 3, landfills would incur a substantial cost to determine the site-specific methane generation rate. Industry experience and public comments indicate that sites do not frequently use Tier 3 because of the expense. Commenters stated that the Tier 3 test is extremely rare because of the high cost and the fact that in many geographical areas the ''k'' factor (methane generation rate constant) is not reduced via testing. There are a significant number of landfills reporting under the Tier 2 method, which allows the site to measure a site-specific NMOC concentration instead of using the higher default NMOC concentrations required under the Tier 1 calculations, however, Tier 3 is not widely used. Thus, we are proposing to allow landfills to conduct Tier 4 testing after a failed Tier 1, Tier 2, or Tier 3 test.

A landfill owner or operator may undertake Tier 4 SEM testing upon submitting an annual NMOC emission rate report that shows an NMOC emission rate greater than 34 Mg/yr using Tier 1, 2, or 3 procedures. If the landfill owner or operator chooses to undertake Tier 4 SEM instead of submitting a design plan and installing and operating a GCCS or estimating the NMOC emission rate using the next higher tier, then the landfill owner or operator would begin keeping records of all Tier 4 SEM readings and submit a ''Tier 4 SEM report'' as its next annual report. The report would include and identify the number of SEM readings above 500 ppm. If the report shows any SEM readings above 500 ppm methane, then the landfill would be required to submit a GCCS design plan within one year and install and begin operating a GCCS within 30 months. (The landfill could not take corrective action to correct the Tier 4 exceedance and could not estimate the annual NMOC emission rate using Tiers 1, 2, or 3.)

If the Tier 4 SEM report shows no SEM readings above 500 ppm for 4 consecutive quarters, then the landfill may continue Tier 4 monitoring at a reduced semi-annual frequency or return to Tier 1, 2, or 3. This approach allows owners or operators some flexibility to select the tier that is most applicable to their landfill, based on the point each landfill is in its lifecycle, and other site-specific factors. Note that a landfill can recalculate NMOC using Tiers 1, 2, or 3 only if it has 4 consecutive quarters with no SEM readings above 500 ppm.

The EPA selected a 500 ppm threshold for Tier 4 because it is consistent with the level the EPA determined to be appropriate to demonstrate that a GCCS is well-designed and well operated. In other words, when conducted properly, SEM is a good indicator of how well a GCCS is operating overall. For landfills without a GCCS (including those that may be using other LFG mitigation strategies), the level of 500 will demonstrate that site-specific surface methane emissions are as low as those allowed at a landfill with a well-operated and well-designed GCCS in place. See the docketed memorandum ''Establishing a Site-Specific Emission Threshold Alternative for MSW Landfills, 2015.'' Therefore the EPA believes this alternative site-specific concentration threshold will achieve the goal of minimizing methane emissions to the atmosphere. The EPA is aware that the surface emission threshold for installing a GCCS under the CA LMR is 200 ppm. However, the EPA also notes that CA LMR retains the 500 ppm level as an appropriate level for instantaneous SEM readings for areas already controlled by a GCCS. California ARB initially proposed a 200 ppm SEM threshold for both GCCS installation and for GCCS operation in its regulation, but finalized 500 ppm for GCCS operation because a lower threshold could cause an operator to overdraw the vacuum on the GCCS (to avoid a surface exceedance), which in turn could draw in too much oxygen and possibly cause fires. The EPA recognizes the concerns with setting the threshold too low, which may cause operators of voluntary GCCS to overdraw the vacuum on the GCCS, and has proposed a level of 500 ppm. The EPA requests comment on whether a level between 200 and 500 ppm is appropriate for the Tier 4 provisions, and whether setting the level below a specific point in this range poses fire or other safety concerns for operating a GCCS. The EPA also requests data that might support a different surface emissions threshold.

The EPA requests comments on whether landfill owners or operators should provide notification to EPA when conducting Tier 4 surface emissions monitoring. Such notification would be similar to the performance test notification required by 40 CFR 60.8(d), wherein the owner or operator of an affected facility provides the Administrator at least 30 days prior notice of any performance test to afford the Administrator the opportunity to have an observer present.

As noted earlier in this section, commenters representing both industry and environmental interests noted that the Tier 4 SEM option would encourage landfill owners or operators to implement alternative methane reduction practices, such as the use of oxidative landfill covers, interim gas control measures, and organic waste diversion. The EPA agrees. Such measures can directly affect surface emissions and when employed would help a landfill ensure that surface emissions are low, enabling a landfill to delay the regulatory requirement to install a GCCS without a significant negative impact on public health or the environment. Section V.A of this preamble discusses alternative methane reduction practices, such as the use of oxidative landfill covers, interim gas control measures, and organic waste diversion.

VIII. Proposed Changes To Address Closed or Non-Producing Areas

The EPA recognizes that many landfills or landfill areas are closed or

have inactive areas that do not produce as much LFG. The production of LFG naturally declines over time as an area stops accepting waste and the amount of degradable organic content declines. In the ANPRM for the Emission Guidelines (79 FR 41772), the EPA requested input on ways to ensure emissions are minimized in the later stages of a landfill's lifecycle (79 FR 41783). Specifically, the EPA sought input on whether the current criteria for capping or removing a GCCS are appropriate: (1) The landfill is closed, (2) the GCCS has been in operation for 15 years, and (3) three successive tests for NMOC emissions are below the NMOC emission threshold. We also sought input on alternative approaches to determining when it is appropriate to cap or remove a GCCS, such as consecutive quarterly measurements that would demonstrate that surface emissions are low.

A. Subcategory for Closed Landfills

The EPA notes that many existing landfills in our dataset closed at various points since 1987, including landfills that closed as many as 18 years prior to this proposed action. In the ANPRM, the EPA presented the distribution of existing landfills by closure date (see Table 3, 79 FR 41792). These data showed that nearly 80 percent of the existing landfills with a design capacity of at least 2.5 million Mg and 2.5 million m^3 were active landfills as of 2014. Similarly, 77 percent of the cumulative waste disposed in these existing landfills were at active landfills. The EPA recognizes that these active landfills are the most significant sources of LFG emissions at existing landfills.

The EPA evaluated the costs and benefits of controlling emissions at a level between 34 Mg/yr and 40 Mg/yr at both open and closed landfills. Table 3 of section V.E of this preamble presents the number of landfills affected and the corresponding emission reductions and costs. The EPA also considered how closed landfills would be affected by this proposal. We are considering ''closed'' landfills to be those that closed after 1987 but on or before the date of this proposal.

At the baseline NMOC emission threshold of 50 Mg/yr, the EPA estimates that 29 of the 233 closed landfills with a design capacity of at least 2.5 million Mg and 2.5 million m^3 would be required to install controls. At an NMOC emission threshold of 40 Mg/yr, the EPA estimates that an additional 22 landfills beyond the baseline would be required to install controls, resulting in controls at approximately 51 [65] closed landfills in 2025. The LFG controlled at these 51 closed landfills represents approximately 6 percent of the total emission reductions achieved from all active and closed landfills expected to control emissions at a level of 40 Mg/yr NMOC in year 2025. At the proposed NMOC emission threshold of 34 Mg/yr, the EPA estimates that an additional 36 landfills beyond the baseline would be required to install controls, resulting in controls at approximately 65 [66] closed landfills in 2025. The LFG controlled at these 65 closed landfills represents less than 7 percent of the total emission reductions achieved from all active and closed landfills expected to control emissions at a level of 34 Mg/yr NMOC in year 2025.

An NMOC emission rate threshold of 34 Mg/yr NMOC at closed landfills would achieve an additional 1,260 Mg NMOC and 5 million $mtCO_2e$ as compared to retaining the threshold of 50 Mg/yr NMOC for these closed sites. These reductions would be achieved at an incremental control cost effectiveness of $23,700 per Mg NMOC and $6 per $mtCO_2e$ for closed landfills in 2025 (excluding additional testing and monitoring costs).

See the docketed memorandum ''Revised Cost and Emission Impacts Resulting from the Landfill EG Review (2015)'' for additional detail on the impacts on closed landfills. In addition to these control costs, the EPA estimates that 160 closed landfills that are not controlling in 2025 would be required to estimate and report NMOC emissions under the proposed option because they have a design capacity of at least 2.5 million Mg and 2.5 million m^3.

After closure, the gas flows at landfills decline and the ability to achieve additional reductions also declines. The EPA received input from SERs that many closed landfills supplement their flare with pilot (fossil) fuels in order to maintain flare operation despite declining gas quantities and quality. These SERs were concerned that a lower threshold at these closed landfills would extend the amount of pilot fuel necessary for flame stability. The EPA notes that closed landfills may have limited access to additional revenue because they are no longer collecting tipping fees and the cost for GCCS and regulatory compliance were not factored into their closure plans. Further, many SERs expressed concerns that many compliance costs are fixed cost items, regardless of the operating status of the landfill, such as permitting fees, drill rig mobilization fees, and others, as discussed in section V.D.1 of this preamble. Many SERs also expressed concerns about staffing limitations at closed landfills, who may have limited staff to oversee extended GCCS design, operations, maintenance, and compliance. For landfills that closed after August 27, 2015, the EPA understands that gas quality will remain a concern and it has provided an alternative set of GCCS removal criteria based on site-specific emissions, as discussed in section VIII.B of this preamble.

Commenters expressed concern about whether landfills that have closed and decommissioned their GCCS should be pulled back into control requirements if their emissions fall between the current 50 Mg/yr threshold and a more stringent NMOC emission threshold. These commenters recommended that the EPA exempt these landfills from more stringent control requirements. One commenter added that it would be costly to re-install or refurbish a previously shutdown system and noted that the system would likely operate for only a few more years before the landfill fell below the more stringent NMOC emission threshold. For example, the proposed reduction of the NMOC emission rate threshold to 34 Mg/yr NMOC could affect landfills that installed a GCCS to comply with the 50 Mg/yr NMOC emissions threshold in 40 CFR part 60, subpart WWW (or the state plans or federal plan implementing 40 CFR part 60, subpart Cc), but whose emissions are still above the EPA's proposed 34 Mg/yr NMOC threshold. These landfills could have declining gas flows, could be closed, or could have met the 40 CFR part 60, subpart WWW criteria for capping or removing the GCCS.

To address concerns about closed landfills, the EPA is proposing to create a subcategory of closed landfills, to which an NMOC emission rate threshold of 50 Mg/yr would apply, instead of an NMOC emission rate of 34 Mg/yr. The subcategory of closed landfills is proposed to be defined as a landfill that has submitted a closure report as specified in 40 CFR 60.38f(f) on or before August 27, 2015. As noted above, the emissions associated with the 65 closed landfills represents less than 7 percent of the total emission reductions achieved from all active and closed landfills expected to control emissions at a level of 34 Mg/yr NMOC in year 2025. The EPA believes this proposed subcategory for closed landfills alleviates concerns with lowering the threshold for closed

[65] 22 closed landfills plus 29 closed landfills.

[66] 36 closed landfills plus 29 closed landfills.

landfills, while focusing the proposed changes to the regulatory framework on emission reductions from the existing landfills contributing most significantly to methane emissions from MSW landfills.

The EPA is requesting input on whether the proposed subcategory for closed landfills is the most appropriate method for controlling emissions and addressing concerns with closed landfills, or whether the EPA should consider exempting closed landfills from the proposed subpart Cf entirely. The EPA is also requesting comments on whether additional provisions should be considered for closed landfills when establishing the revised Emission Guidelines, including whether the closed landfill subcategory should be expanded to include landfills that closed within 13 months after publication of the Emission Guidelines in the **Federal Register.**

B. Criteria for Capping or Removing a GCCS

Several commenters requested that the EPA reconsider the 15-year criteria for capping or removing a GCCS and one commenter stated that the 15-year period should be longer, rather than shorter. Commenters supported the use of Tier 4 SEM procedures to help determine the removal or decommissioning of existing GCCS. Commenters supported the use of SEM to allow the flexibility to confirm when a closed landfill or closed area of a landfill no longer producing gas in significant quantities can remove or decommission all or a portion of the GCCS. Several of these commenters referenced a rationale similar to the one they provided for supporting the use of Tier 4 SEM for determining GCCS installation as discussed in section VII.A of this preamble. Several commenters requested that the EPA provide a ''step-down'' procedure for scaling down GCCS operations in non-producing areas and allowing a GCCS to be removed from rule applicability.

The EPA is proposing two sets of criteria for capping and removing the GCCS. The first set of criteria is similar to the criteria in subpart Cc, but has been adjusted to reflect the new NMOC emission threshold proposed in this proposal: (1) The landfill is closed, (2) the GCCS has been in operation for 15 years, and (3) three successive tests for NMOC emissions are below the proposed NMOC emission threshold of 34 Mg/yr for open landfills and 50 Mg/yr NMOC for closed landfills. The EPA is also proposing an alternative set of criteria for capping or removing the GCCS that employs a SEM demonstration: (1) The landfill, or an area of an active landfill, is closed, (2) the GCCS has operated for at least 15 years or the landfill owner or operator can demonstrate that the GCCS will be unable to operate for 15 years due to declining gas flows, and (3) the owner or operator demonstrates for 4 consecutive quarters that there are no surface emissions of 500 ppm or greater from the landfill or closed area. The EPA selected a level of 500 ppm to be consistent with the operational standard for operating a GCCS. The operational standard is the surface emissions level that cannot be exceeded once a GCCS has been installed.

The EPA proposes the use of SEM procedures in section VI.A of this preamble for determining when to decommission wells and for when the landfill can cap or remove a GCCS. If a landfill owner or operator can demonstrate that surface emissions in the closed area of an open landfill or a closed landfill are below 500 ppm for 4 consecutive quarters, then they would be able to stop collecting gas from that area or the landfill as a whole. After 4 consecutive quarters of no exceedances, the landfill continues to monitor the closed area annually for surface emission exceedances of 500 ppm or greater. If exceedances are found, the landfill must restart the GCCS in the closed area and the GCCS would be required to operate according to proposed 40 CFR part 60, subpart Cf.

As discussed in section VII.A of this preamble, surface emissions monitoring more closely reflects the site's actual emissions and accounts for differences in gas generation due to waste composition and local conditions. As discussed in section VII.A of this preamble, sites will have the incentive to employ various technologies or practices to minimize surface emissions, thus giving the owner or operator flexibility at both the installation and removal stages of LFG collection and control. With these rule provisions, the EPA can ensure environmental protection is demonstrated through low surface emissions and landfill owners or operators will have the flexibility to cap or remove the GCCS based on site-specific surface emission readings.

C. Non-Producing Areas and Wellhead Standards

Commenters have identified the difficulty of operating a GCCS in ''non-producing'' areas and meeting the wellhead operational standards for the GCCS. They have also contended that the corrective action—expanding the GCCS, is counter to a ''well-operated'' GCCS. Several commenters requested that the EPA provide flexibility to meet the wellhead and other requirements in ''non-producing'' areas. Commenters generally consider a ''non-producing'' area as one with declining LFG generation and gas flow, which in turn make it difficult to continuously meet the operational standards for a GCCS. One commenter stated that when landfill gas production decreases significantly, even small amounts of vacuum can draw air into the waste mass causing exceedances of the wellhead oxygen parameter. The commenter added that the landfill owner or operator may address the oxygen exceedance by reducing the vacuum to a very low level, but then may not be able to maintain negative pressure. Another commenter stated that LFG wells in old waste can be very sensitive to vacuum adjustments, easily exceeding the 5 percent oxygen standard not due to excessive air infiltration, but rather due to low LFG volume. Other commenters noted that the difficulty of meeting the wellhead oxygen/nitrogen operational standards could be exacerbated if the EPA were to reduce the NMOC emissions threshold below 50 Mg/yr.

As discussed in section VI.B of this preamble, the EPA proposes to remove the requirement to meet wellhead operating standards for temperature and nitrogen/oxygen. Removing these two standards will not only promote earlier and more robust collection of LFG as discussed in section VI.B of this preamble, but will also give owners or operators flexibility to operate the GCCS in non-producing or closed areas without the risk of exceeding the oxygen/nitrogen operating standards. Removing the requirement to meet the oxygen/nitrogen operating standards and the need for corrective action, including expanding the GCCS, will reduce the burden on both the landfill owner or operator and the implementing authority. As discussed in section VIII.B of this preamble, the EPA is also providing flexibility for temporary decommissioning of wells in closed landfills or closed areas of active landfills to provide flexibility for meeting negative pressure in areas that can demonstrate low surface emissions.

IX. Rationale for the Other Proposed Changes

A. Landfill Gas Treatment

The EPA is proposing a definition of treated landfill gas and treatment system. A *Treatment system* would be defined as a system that filters, de-waters, and compresses landfill gas to levels determined by the landfill owner

or operator based on the beneficial end use of the gas. The EPA is proposing this definition to provide compliance flexibility and to promote the beneficial use of LFG. The approach works in conjunction with the EPA's proposed expansion of the use of treated landfill gas beyond use as a fuel for a stationary combustion device to include other beneficial uses such as vehicle fuel, production of high-Btu gas for pipeline injection, and use as a raw material in a chemical manufacturing process. This definition would be available for all MSW landfill owners or operators.

The approach is consistent with public comments received on previous landfills documents (67 FR 36475, May 23, 2002; 71 FR 53271, September 8, 2006; 79 FR 41796, July 17, 2014; 79 FR 41772, July 17, 2014), as well as input from participants in small entity outreach, who stated that the extent of filtration, de-watering, and compression can be site- and equipment-dependent, and that different sites require different levels of gas treatment to protect the combustion devices that use treated LFG as a fuel and ensure good combustion.

Commenters on the proposed NSPS (79 FR 41796) and ANPRM (79 FR 41772) supported the expanded use of treated LFG. Commenters including state/local agencies, a large landfill owner or operator, and an industry trade association supported the expanded beneficial use of LFG to include uses beyond subsequent sale or use and agreed that a broader definition is appropriate. No commenters opposed the expanded use.

Many commenters on the July 17, 2014 proposed NSPS (79 FR 41796) and ANPRM (79 FR 41772) opposed a definition of LFG treatment based on specific numerical values for filtration and de-watering. Numerous commenters disagreed with a requirement to meet specific absolute filtration and dew point suppression values and contended that a ''one-size-fits-all'' approach was not appropriate, and would not reduce emissions. One commenter specifically noted the impact that the costs of these requirements would have on small entities.

Commenters estimated costs to comply with the dew point reduction. Based on experience, commenters estimated that chillers alone would cost $500,000 each. Commenters estimated that instrumentation, monitoring, and controls would cost an additional $150,000 per chiller, plus up to $60,000 for annual maintenance, monitoring, and operation. These commenters also expressed concerns about the timeframe for installing chillers. Plus, many commenters also expressed concern that the numerical requirements would be detrimental to existing and potential beneficial use projects, including potentially shutting down existing beneficial use projects and preventing future ones.

On the other hand, many commenters supported the more flexible definition of treatment system that allows the level of treatment to be tailored to the type and design of the specific project equipment. Commenters pointed out that owners and operators of combustion equipment are already motivated to treat landfill gas to manufacturer specifications to protect equipment and maintain warranties. Commenters added that compliance with a site-specific definition of treatment can be tracked using a preventative maintenance plan.

The EPA recognizes that the landfill industry continues to develop new LFG beneficial use projects and the EPA continues to support the recovery and use of LFG as an energy source. Thus, the EPA is proposing a simplified definition of treatment as filtering, de-watering, and compressing landfill gas, but is retaining as alternative a definition of LFG treatment based on specific numerical values for filtration and de-watering.

The simplified definition of treatment, combined with site- and equipment-specific monitoring, is expected to provide compliance flexibility, ensure environmental protection, and promote the beneficial use of LFG. The proposed definition would allow the level of filtration, dewatering, and compression to be tailored to the type and design of the specific equipment in which the LFG is used. Owners or operators would need to identify monitoring parameters, be able to demonstrate that such parameters effectively monitor filtration, de-watering or compression system performance necessary for the end use of the treated LFG and keep records to demonstrate that the parameters are being met.

Owners or operators would also need to develop a site-specific treatment system monitoring plan that would not only accommodate site-specific and end-use specific treatment requirements for different energy recovery technologies, but would also ensure environmental protection. A well-operated system with a level of treatment specific to the site and end-use equipment would prevent equipment disruptions and limit emissions resulting during shutdowns or malfunctions. A treatment approach that can be tailored to the end use of the gas would also promote wider use of LFG energy recovery, by limiting the compliance burden for those landfills opting to include an energy recovery component. Landfill gas energy recovery protects the environment by not only controlling LFG and its components, but also by offsetting conventional sources of energy with a renewable resource for heating, electricity, vehicle fuel, or other innovative end uses. The EPA also notes that landfills complying with a treatment compliance option are also subject to the surface emissions monitoring requirements discussed in section VI.A of this preamble to ensure that the GCCS is well operated and surface emissions are minimized. Preparing the monitoring plan would document procedures that landfills are likely already following to ensure that the LFG has been adequately treated for its intended use and provide verifiable records of proper operation to the EPA or other implementing authorities.

The plan would be required to include monitoring parameters addressing all three elements of treatment (filtration, de-watering, and compression) to ensure the treatment system is operating properly for the intended end use of the treated LFG. The plan would be required to include monitoring methods, frequencies, and operating ranges for each monitored operating parameter based on manufacturer's recommendations or engineering analysis for the intended end use of the treated LFG. Documentation of the monitoring methods and ranges, along with justification for their use, would need to be included in the site-specific monitoring plan. In the plan, the owner or operator would also need to identify who is responsible (by job title) for data collection, explain the processes and methods used to collect the necessary data, and describe the procedures and methods that are used for quality assurance, maintenance, and repair of all continuous monitoring systems.

The owner or operator would be required to revise the monitoring plan to reflect changes in processes, monitoring instrumentation, and quality assurance procedures; or to improve procedures for the maintenance and repair of monitoring systems to reduce the frequency of monitoring equipment downtime.

Promote the Beneficial Use of LFG. Technical assistance is available to landfill owners and operators who want to beneficially use LFG. The EPA LMOP is a voluntary assistance program that encourages recovery and beneficial use of landfill gas, and in turn, helps to reduce methane emissions from landfills. LMOP has developed many

publications and tools to assist stakeholders interested in developing LFG energy projects or promote landfill gas energy recovery to various audiences. LMOP also provides customized, direct assistance to individual Partners to address their needs, such as preliminary analyses to estimate landfill gas energy project feasibility or responses to technical questions about particular issues or barriers involved with project development. LMOP's Web site has become one of the main modes of providing LMOP Partners, others in the industry, and the public with basic information and keeping them abreast of the latest LFG energy–related advances and opportunities (*http://www.epa.gov/lmop/*). Many LMOP resources and tools are available on the Web site including a Project Development Handbook, a preliminary economic assessment model, and a database of LFG energy recovery projects.

B. Startup, Shutdown, and Malfunction

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 section 112 standards apply continuously.

Periods of Startup or Shutdown. Consistent with *Sierra Club* v. *EPA,* the EPA is proposing standards in 40 CFR part 60, subpart Cf that apply at all times. In proposing the standards in this rule, the EPA has taken into account startup and shutdown periods and, for the reasons explained below, has not proposed alternate standards for those periods.

The part 60 general provisions, which define startup, shutdown, and malfunction, were written for typical industrial or manufacturing sources and associated processes. Many of these sources and processes may, at times, be shut down entirely for clean-out, maintenance, or repairs, and then restarted. Applying the standards at all times, including periods of startup and shutdown, is intended to minimize excess emissions when the source or process ceases operation or commences operation, or during malfunctions. Landfill emissions, however, are produced by a continuous biological process that cannot be stopped or restarted. For landfills, the primary SSM concern is with malfunction of the landfill GCCS and associated monitoring equipment, not with the startup or shutdown of the entire source. Thus, SSM provisions in the 40 CFR part 60, subpart Cf focus primarily on malfunction of the gas collection system, gas control system, and gas treatment system, which is part of the gas control system.

Periods of Malfunction. 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 60.2). The EPA interprets CAA section 111 as not requiring emissions that occur during periods of malfunction to be factored into development of CAA section 111 standards. Nothing in CAA section 111 or in case law requires that the EPA consider malfunctions when determining what standards of performance reflect the degree of emission limitation achievable through ''the application of the best system of emission reduction'' that the EPA determines is adequately demonstrated. While the EPA accounts for variability in setting emissions standards, nothing in CAA section 111 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 111 standards of performance.

Further, accounting for malfunctions in setting emission standards would be difficult, if not impossible, given the myriad different types of malfunctions that can occur across all sources in the category and given the difficulties associated with predicting or accounting for the frequency, degree, and duration of various malfunctions that might occur. As such, the performance of units that are malfunctioning is not ''reasonably'' foreseeable. See, *e.g., Sierra Club* v. *EPA,* 167 F.3d 658, 662 (D.C. Cir. 1999) (''The EPA typically has wide latitude in determining the extent of data-gathering necessary to solve a problem. We generally defer to an agency's decision to proceed on the basis of imperfect scientific information, rather than to 'invest the resources to conduct the perfect study.' '') See also, *Weyerhaeuser* v. *Costle,* 590 F.2d 1011, 1058 (D.C. Cir. 1978) (''In the nature of things, no general limit, individual permit, or even any upset provision can anticipate all upset situations. After a certain point, the transgression of regulatory limits caused by 'uncontrollable acts of third parties,' such as strikes, sabotage, operator intoxication or insanity, and a variety of other eventualities, must be a matter for the administrative exercise of case-by-case enforcement discretion, not for specification in advance by regulation.''). In addition, emissions during a malfunction event can be significantly higher than emissions at any other time of source operation. For example, if an air pollution control device with 99 percent removal goes off-line as a result of a malfunction (as might happen if, for example, the bags in a baghouse catch fire) and the emission unit is a steady state type unit that would take days to shut down, the source would go from 99 percent control to zero control until the control device was repaired. The source's emissions during the malfunction would be 100 times higher than during normal operations. As such, the emissions over a 4-day malfunction period would exceed the annual emissions of the source during normal operations. As this example illustrates, accounting for malfunctions could lead to standards that are not reflective of (and significantly less stringent than) levels that are achieved by a well-performing non-malfunctioning source. It is reasonable to interpret CAA section 111 to avoid such a result. The EPA's approach to malfunctions is consistent with CAA section 111 and is a reasonable interpretation of the statute.

In the event that a source fails to comply with the applicable CAA section 111 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 111 standard was, in fact, sudden, infrequent, not reasonably preventable and was not instead caused in part by poor maintenance or careless operation (40 CFR 60.2 (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 111 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.

In several prior rules, the EPA had included an affirmative defense to civil penalties for violations caused by malfunctions in an effort to create a system that incorporates some flexibility, recognizing that there is a tension, inherent in many types of air regulation, to ensure adequate compliance while simultaneously recognizing that despite the most diligent of efforts, emission standards may be violated under circumstances entirely beyond the control of the source. Although the EPA recognized that its case-by-case enforcement discretion provides sufficient flexibility in these circumstances, it included the affirmative defense to provide a more formalized approach and more regulatory clarity. See *Weyerhaeuser Co.* v. *Costle,* 590 F.2d 1011, 1057–58 (D.C. Cir. 1978) (holding that an informal case-by-case enforcement discretion approach is adequate); but see *Marathon Oil Co.* v. *EPA,* 564 F.2d 1253, 1272–73 (9th Cir. 1977) (requiring a more formalized approach to consideration of ''upsets beyond the control of the permit holder''). Under the EPA's regulatory affirmative defense provisions, if a source could demonstrate in a judicial or administrative proceeding that it had met the requirements of the affirmative defense in the regulation, civil penalties would not be assessed. Recently, the U.S. Court of Appeals for the District of Columbia Circuit vacated an affirmative defense in one of the EPA's CAA section 112 regulations. *NRDC* v. *EPA,* 749 F.3d 1055 (D.C. Cir. 2014) (vacating affirmative defense provisions in the CAA section 112 rule establishing emission standards for Portland cement kilns). The court found that the EPA lacked authority to establish an affirmative defense for private civil suits and held that under the CAA, the authority to determine civil penalty amounts in such cases lies exclusively with the courts, not the EPA. Specifically, the court found: ''As the language of the statute makes clear, the courts determine, on a case-by-case basis, whether civil penalties are 'appropriate.' '' See *NRDC* at 1063 (''[U]nder this statute, deciding whether penalties are 'appropriate' in a given private civil suit is a job for the courts, not EPA.''). In light of *NRDC* v. *EPA,* the EPA is not including a regulatory affirmative defense provision in this rulemaking. As explained above, if a source is unable to comply with emissions standards as a result of a malfunction, the EPA may use its case-by-case enforcement discretion to provide flexibility, as appropriate. Further, as the U.S. Court of Appeals for the District of Columbia Circuit recognized, in an EPA or citizen enforcement action, the court has the discretion to consider any defense raised and determine whether penalties are appropriate. *Cf. NRDC,* at 1064 (arguments that violation were caused by unavoidable technology failure can be made to the courts in future civil cases when the issue arises). The same is true for the presiding officer in EPA administrative enforcement actions.[67]

Limit on SSM duration. Subpart WWW of 40 CFR part 60 limits the duration of SSM events for MSW landfills to 5 days for the landfill gas collection system and 1 hour for treatment or control devices. Proposed 40 CFR part 60, subpart Cf does not include the 5-day and 1-hour time limitations because some malfunctions cannot be corrected within these timeframes. Excluding these provisions is consistent with *Sierra Club* v. *EPA* (551 F.3d 1019 (D.C. Cir. 2008)), which concluded that that emission standards apply at all times, including periods of SSM, and 40 CFR 60.11(d), which states that at all times, including periods of startup, shutdown and malfunction, owners or operators shall, to the extent practicable, maintain and operate any affected facility including associated air pollution control equipment in a manner consistent with good air pollution control practice for minimizing emissions. The proposed revisions clarify that the NSPS standards continue to apply during periods of SSM.

To prevent free venting of landfill gas to the atmosphere during control device malfunctions, we propose to include a requirement in subpart Cf (40 CFR 60.34f(e)) that states that in the event the collection or control system is not operating, the gas mover system must be shut down and all valves in the collection and control system contributing to venting of gas to the atmosphere must be closed within 1 hour. The EPA proposes to use the term ''not operating,'' which includes periods when the gas collection or control system is not operating for whatever reason, including when the gas collection or control system is inoperable. The EPA requests comment on the technical feasibility of this approach as well as alternate ways to prevent free venting of landfill gas to the atmosphere during control device malfunctions.

Shutting down the gas mover equipment and all valves contributing to venting of gas to the atmosphere minimizes emissions from the landfill while the control system is not operating and is being repaired. Compliance with proposed 40 CFR 60.34f(e) does not constitute compliance with the applicable standards in proposed 40 CFR 60.36f; however, as a practical matter it is unlikely that there would be a violation since no gas would be flowing to the control device. Compliance with proposed 40 CFR 60.34f(e) is necessary to demonstrate compliance with the general duty to minimize emissions in 40 CFR 60.11(d) during control or collection system malfunctions.

Under proposed 40 CFR part 60, subpart Cf, landfill owners or operators must keep records of combustion temperature, bypass flow, and periods when the flare flame or the flare pilot flame is out. However, without additional provisions, the EPA would have no way to gauge the severity of an emissions exceedance that may occur when these operating parameters are not being met or when the control device is not operating. Therefore, the EPA is proposing to include provisions for landfill owners or operators to estimate NMOC emissions when the control device or collection system is not operating. The landfill owners or operators may use whatever information is available to estimate NMOC emissions during the period, including but not limited to, landfill gas flow to or bypass of the control device, the concentration of NMOC (from the most recent performance test or from AP–42), and the amount of time the control

[67] Although the *NRDC* case does not address the EPA's authority to establish an affirmative defense to penalties that is available in administrative enforcement actions, EPA is not including such an affirmative defense in the proposed rule. As explained above, such an affirmative defense is not necessary. Moreover, assessment of penalties for violations caused by malfunctions in administrative proceedings and judicial proceedings should be consistent. *Cf.* CAA section 113(e) (requiring both the Administrator and the court to take specified criteria into account when assessing penalties).

device is not operating. Landfill owners or operators would keep records of the estimated emissions and would report the information in the annual compliance report.

As discussed above, malfunctions are by definition sudden, infrequent and not reasonably preventable failures of emissions control, process or monitoring equipment. Further, there are myriad different types of malfunctions that can occur and there are significant difficulties associated with predicting or accounting for the frequency, degree, and duration of various malfunctions that might occur. As a result, the EPA believes that it is generally not technically feasible to establish an alternative emission standard that would apply during periods of malfunction. The EPA also believes that it would be difficult to defend an alternative standard that does not achieve a level of emission reduction comparable to that required by the standard that applies during periods of normal operation in circumstances where there are steps that an owner or operator could take to achieve such reductions such as shutting down the process or having a second control device. In the immediate case, by shutting down the flow to the flare or other control device a source is unlikely to be in violation of the 98 percent emission reduction requirement since there will be no gas flowing to the control device. We are, however, interested in comment on whether there are alternative ways in which the emission limit could be complied with when the control device malfunctions.

C. Definitions and Other Rule Changes

We propose to include definitions of ''household waste'' and ''segregated yard waste'' in proposed 40 CFR part 60, subpart Cf to clarify our intent regarding the applicability of proposed subpart Cf to landfills that do not accept household waste, but accept segregated yard waste. We also proposed to exclude construction and demolition waste from the definition of household waste. We intend for subpart Cf to apply to MSW landfills that accept general household waste (including garbage, trash, sanitary waste), as indicated in the definitions. We do not intend the landfills rules to apply to landfills that accept only segregated yard waste or a combination of segregated yard waste and non-household waste such as construction and demolition waste.

X. Request for Comment on Specific Provisions

A. Defining Closed Areas of Open Landfills

In the ANPRM for the Emission Guidelines (79 FR 41772), the EPA requested input on how non-producing areas of the landfill, *i.e.,* areas that are no longer generating landfill gas, could be excluded from gas collection requirements when designing a GCCS (79 FR 41792). The EPA also sought input on whether the current criteria for capping or removing a GCCS are appropriate, one of which requires that the landfill be closed (79 FR 41783). As discussed in section VIII.B of this preamble, we are proposing a second set of alternative criteria for capping or removing the GCCS at closed landfills or closed areas of active landfills, based on surface emissions monitoring.

Commenters expressed concern with the requirement for closed areas to be physically separated in order to be excluded from GCCS requirements, noting that many closed areas of active landfills are non-producing but remain physically connected to other areas of the landfill.

To help address the difficulty of controlling landfill gas in low-producing areas, the EPA is proposing an alternative set of criteria for capping or removing the GCCS that employs a SEM demonstration: (1) The landfill is closed or an area of an active landfill is closed, (2) the GCCS has operated for at least 15 years or the landfill owner or operator can demonstrate that the GCCS will be unable to operate for 15 years due to declining gas flows, and (3) the landfill or closed area demonstrates for 4 consecutive quarters that there are no surface emissions of 500 ppm or greater. The EPA is also requesting comment on whether owners or operators of physically separated, closed areas of landfills may model NMOC emission rates, or may determine the flow rate of landfill gas using actual measurements, to determine NMOC emissions in order to identify areas that can be excluded from gas collection. The EPA considers areas to be physically separated if they have separate liners and gas cannot migrate between the separate areas.

To further address non-producing areas, proposed 40 CFR part 60, subpart Cf contains procedures for excluding areas from gas collection and control. Owners or operators of landfills with physically separated, closed areas may demonstrate that the quantity of NMOC emissions from the area is less than 1 percent of the total NMOC emissions from the entire landfill, and thus exclude the area from control. Under proposed 40 CFR part 60, subpart Cf, owners or operators of landfills with physically separated, closed areas may model NMOC emission rates, or may determine the flow rate of landfill gas using actual measurements, to determine NMOC emissions. Using actual flow measurements would yield a more precise measurement of NMOC emissions for purposes of demonstrating the closed area represents less than 1 percent of the landfills total NMOC emissions.

Because both of these topics rely on defining a closed area of a landfill, the EPA requests comment on how to define closed areas of open landfills.

B. Enhanced Surface Emissions Monitoring

The proposed 40 CFR part 60, subpart Cf collection and control requirements are intended to ensure that landfills maintain a tight cover that minimizes any emissions of landfill gas through the surface. The surface emissions monitoring procedures in proposed 40 CFR part 60, subpart Cf are consistent with 40 CFR part 60, subpart WWW and require quarterly surface emissions monitoring to demonstrate that the cover and gas collection system are working properly. However, we are also considering and requesting additional public input on a potential alternative approach to surface emissions monitoring.

The alternative surface monitoring approach includes changing the walking pattern that traverses the landfill from 30 meters (98 ft) to 25 ft and adding a methane concentration limit of 25 ppm as determined by integrated surface emissions monitoring. This would be in addition to the 500 ppm emission concentration as determined by instantaneous surface emissions monitoring. Integrated surface emissions monitoring provides an average surface emission concentration across a specified area. For integrated surface emissions monitoring, the specified area would be individually identified 50,000 square ft grids. A tighter walking pattern and the addition of an integrated methane concentration limit would more thoroughly ensure that the collection system is being operated properly, that the landfill cover and cover material are adequate, and that methane emissions from the landfill surface are minimized in all types of climates. As part of these potential changes, the EPA is also considering not allowing surface monitoring when the average wind speed exceeds 5 miles per hour (mph) or the instantaneous wind speed exceeds 10 mph because air movement can affect whether the

monitor is accurately reading the methane concentration during surface monitoring. We are considering this change because conducting surface emissions monitoring during windy periods may not yield readings that are representative of the emissions. The EPA requested public comment on this same enhanced approach in the landfills NSPS (79 FR 41822) and ANPRM (79 FR 41789).

Many commenters supported the enhanced surface monitoring provisions for detecting surface emissions. A state agency supported reducing the traverse pattern to 25 feet, stating that the tighter traverse pattern would increase the chance of detecting exceedances. An environmental organization supported all elements of the enhanced surface monitoring and contended that the current monitoring at 30 meter intervals leaves most areas of the landfill unmonitored. Both these commenters suggested that the walking pattern be varied each quarter (*i.e.,* offset by 10 meters) to monitor additional areas over time. The environmental organization supported an integrated reading because it would be a better indicator of GCCS performance and they contended that the additional costs were not unreasonable.

Many commenters opposed the enhanced surface monitoring provisions. Commenters that opposed the enhanced surface monitoring provisions primarily cited the additional costs and contended that the additional expense was not warranted because of limited environmental benefits. Two commenters commissioned a study to compare the level of effort and monitoring results of the CA LMR to the SEM requirements under the current NSPS (40 CFR part 60, subpart WWW). The CA LMR utilizes a 25 ft traverse pattern, an instantaneous as well as integrated reading, and prevents sampling during windy conditions (greater than 5 mph average and greater than 10 mph instantaneous).

The study examined monitoring results for eight quarters of NSPS surface monitoring at 42 California landfills, encompassing 27,140 acres. Those results were compared to CA LMR surface monitoring for 10 quarters at 72 California landfills, including the 42 landfills conducting NSPS surface monitoring, encompassing a total of 57,151 acres. Among other observations, the study concludes that although the CA LMR surface emission monitoring requirements detected 2.1 percent more exceedances than NSPS surface emission monitoring requirements, detecting these additional exceedances is not cost effective. The study also concluded that under the NSPS monitoring, only one landfill was required to expand its GCCS, while under the CA LMR monitoring, only three landfills were required to expand the GCCS. The two commenters that commissioned the study contended that the additional cost to conduct enhanced surface monitoring, estimated by the EPA to be seven times more expensive than NSPS monitoring, was an extraordinary amount of money to spend detecting exceedances at merely an additional 2.8 percent of acres monitored, while increasing gas collection at only one landfill.

The EPA examined the data supporting the study as provided by one of the commenters. The data allowed for direct comparison of exceedance data from 29 landfills, although for different time periods. The study and supporting data provide evidence of greater exceedances under the California approach than the current approach. However, the EPA was unable to determine the magnitude of emission reductions that might result from the greater exceedances under the California approach. See the docketed memorandum entitled ''Analysis of Surface Exceedances from California Landfills under the New Source Performance Standards and the California Landfill Methane Rule.''

Many commenters, including many state agencies, opposed limiting surface monitoring during windy conditions, stating that the wind restrictions would be a significant inhibitor to completing the required monitoring in many regions of the country due to typical windy conditions. Commenters also stated that it would be difficult to schedule and reschedule dedicated sampling crews and conditions could change quickly during sampling events, causing crews to stop monitoring.

For proposed 40 CFR part 60, subpart Cf, the EPA estimated the costs associated with both the proposed subpart Cf surface monitoring requirements (which are the same as the surface monitoring requirements in 40 CFR part 60, subpart WWW) and potential changes to the surface monitoring provisions under the proposed 2.5/34 option and the proposed 2.5/40 option and applied them to the set of existing landfills that would be subject to control requirements under the respective option. To determine the costs, the EPA used the following assumptions: Most landfills will hire a contractor to conduct the quarterly monitoring. The landfill will incur labor costs based on the time it takes to walk the traverse (hours per acre), the size of the landfill (acres), and a labor rate (dollars per hour). The landfill will also incur an equipment rental rate (dollars per hour) as well as a flat fee for purchasing calibration gases and hydrogen to fuel the equipment. Equipment rental rates are dollar per day/week/month, depending on the size of the landfill and time to traverse the acreage during each quarterly period. See the docketed memo, ''Updated Methodology for Estimating Testing and Monitoring Costs for the MSW Landfill Regulations. 2015,'' which contains the details for determining the costs that a landfill would incur to conduct enhanced surface monitoring.

Using the techniques discussed in section V.B of this preamble, the EPA estimated the number of landfills that are expected to install controls under the baseline, as well as the proposed option 2.5/34 and option 2.5/40. Then, the EPA applied surface monitoring costs to the respective set of landfills because landfills that must install controls must also conduct surface monitoring. Table 4 of this preamble compares the enhanced surface monitoring costs that would be incurred for new landfills under the baseline and proposed option 2.5/34 and proposed option 2.5/40.

TABLE 4—COMPARISON OF BASELINE SURFACE MONITORING VERSUS ENHANCED SURFACE MONITORING IN 2025

Control option	Surface monitoring type	Number of landfills controlling	Annual cost	Incremental cost	Total cost per controlled landfill	Incremental cost per controlled landfill
Baseline 2.5/50 (2.5 million Mg design capacity/50 Mg/yr NMOC).	No change (30 meter traverse).	574	6,327,000	NA	11,000	NA
	Enhanced (25-foot traverse, integrated sample).	.....	43,831,000	37,504,000	76,400	65,300

TABLE 4—COMPARISON OF BASELINE SURFACE MONITORING VERSUS ENHANCED SURFACE MONITORING IN 2025—Continued

Control option	Surface monitoring type	Number of landfills controlling	Annual cost	Incremental cost	Total cost per controlled landfill	Incremental cost per controlled landfill
Option 2.5/40 (2.5 million Mg design capacity/40 Mg/yr NMOC).	No change (30 meter traverse).	636	6,741,000	414,000	10,600	700
	Enhanced (25-foot traverse, integrated sample).	.....	46,746,000	40,419,000	73,500	63,600
Proposed Option 2.5/34 (2.5 million Mg design capacity/34 Mg/yr NMOC).	No change (30 meter traverse).	680	7,062,000	735,000	10,400	1,100
	Enhanced (25-foot traverse, integrated sample).	.....	49,037,000	42,710,000	72,100	62,800

Several factors contribute to the cost of enhanced surface monitoring. Monitoring along a traverse with a 25 ft. interval would increase monitoring time, and thus the labor costs, compared to monitoring along a 30 meter (98 ft.) interval. Monitoring along the tighter traverse pattern would take approximately 4 times as long, because the distance is approximately 4 times greater. For a landfill to conduct the integrated surface emissions monitoring, the EPA assumed the landfill would rent a handheld portable vapor analyzer with a data logger. The data logger is necessary to obtain an integrated reading over a single 50,000 square foot grid. However, the EPA does not expect that requiring an integrated methane concentration would add significant cost because landfills could use the same instrument that they currently use for the instantaneous readings and these instruments can be programmed to provide an integrated value as well as an instantaneous value.

The EPA recognizes that these provisions could reduce surface emissions and that these emissions reductions are difficult to quantify. The EPA also understands that there are potential implementation concerns with these enhanced procedures. Surface monitoring is a labor intensive process and tightening the grid pattern would increase costs. Of the 574 landfills expected to be controlling in 2025 under the baseline, it would take these landfills over 42 hours, on average, to complete each quarterly traverse pattern. Tightening the traverse pattern to 25 ft instead of 30 meters would require over 165 hours per quarter, or nearly 500 additional hours per year, per landfill, compared to the current 30-meter traverse pattern.

At this time, the EPA is not proposing surface monitoring provisions that differ from those outlined in 40 CFR part 60, subpart WWW, but we are soliciting comment on the various elements of enhanced surface emissions monitoring (the width of the traverse pattern, offsetting the walking pattern each quarter (*i.e.,* offset by 10 meters), an integrated reading of 25 ppm, and restrictions during windy conditions), as well as techniques and data to estimate the emission reductions associated with enhanced surface monitoring.

C. Wet Landfills

In the ANPRM (79 FR 41784), we solicited input on separate thresholds for wet landfills and how wet landfills might be defined. Among other concerns, we received feedback from commenters expressing concern on potential overlap between wet landfills handled under the Emission Guidelines and bioreactor landfills handled under 40 CFR part 63, subpart AAAA (National Emission Standards for Hazardous Air Pollutants: Municipal Solid Waste Landfills). A landfill is defined as a bioreactor under 40 CFR part 63, subpart AAAA if it has added liquids other than leachate into the waste mass in a controlled fashion;[68] such bioreactor landfills are required to install and operate a GCCS on an accelerated schedule compared to non-bioreactor landfills. Once a landfill is required to install and operate a GCCS under either 40 CFR part 63, subpart AAAA, or 40 CFR part 60, subparts WWW and Cc, the GCCS requirements are the same. In addition to bioreactors as defined under 40 CFR part 63, subpart AAAA, the EPA is aware of 31 bioreactor projects permitted under the research, development, and demonstration (RD&D) rule in 11 states and one project on tribal lands.[69] These bioreactor landfills generally do not meet the 40 percent by weight moisture component of the bioreactor definition in 40 CFR part 63, subpart AAAA. Based on the options analyzed and presented in Table 3 of this preamble, proposed option 2.5/34 is estimated to achieve reductions of NMOC and methane emissions at 651 existing open landfills in year 2025. Of these 651 landfills, 18 are identified as having RD&D permits, which permit liquids addition; 343 are located in areas receiving greater than 40 inches of precipitation each year; and an additional 16 landfills report leachate recirculation activities and a k value of 0.057 $year^{-1}$ or greater to subpart HH of the GHGRP, but are not located in areas receiving 40 inches of precipitation or more, for a total of 377 ''wet'' landfills out of those required to control emissions.

Collectively, reductions from these 377 wet landfills constitute approximately 50 percent of the incremental reductions achieved by the proposed option 2.5/34. Nearly all of these incremental reductions are coming from the 343 landfills that are located in areas receiving 40 inches of precipitation or more. Based on this analysis, the NMOC threshold of 34 Mg/yr in this proposal achieves significant reduction in emissions from wet landfills.

The EPA conducted a preliminary analysis to determine the additional reductions that could be achieved if the initial lag time was shortened by 1 year and the expansion lag time was shortened by 2 years and applied to open wet landfills in addition to the lower NMOC emission threshold of 34 Mg/yr. The results of this analysis show

[68] Under 40 CFR part 63, subpart AAAA, bioreactor means a MSW landfill or portion of a MSW landfill where any liquid other than leachate (leachate includes landfill gas condensate) is added in a controlled fashion into the waste mass (often in combination with recirculating leachate) to reach a minimum average moisture content of at least 40 percent by weight to accelerate or enhance the anaerobic (without oxygen) biodegradation of the waste.

[69] EPA/600/R–14/335. Permitting of Landfill Bioreactor Operations: Ten Years after the RD&D Rule.

that an additional approximately 220 Mg/yr of reductions in NMOC emissions and 35,200 Mg/yr of reductions in methane (879,000 $mtCO_2e$/yr) could be achieved from these 377 wet landfills in 2025.

It is important to note that the impacts of the options in Table 3 as well as this preliminary analysis of wet landfills were conducted using a k value of 0.04 for any landfill that is located in an area with at least 25 inches of rainfall, consistent with the analysis discussed at 79 FR 41805. This modeling parameter was used for all but nine of the 377 wet landfills discussed above. Those nine landfills, which are either RD&D landfills or reported significant leachate recirculation to subpart HH of the GHGRP were modeled using a k value of 0.02 because they were located in arid areas.

The results of the impacts analyses presented in Table 3 of this preamble and above could differ significantly if alternative modeling parameters (k and/or L^o) were used to model emissions from this group of wet landfills. For example, subpart HH of the GHGRP uses a k value of 0.057 for landfills that exceed 40 inches per year when considering both leachate recirculation and precipitation. The EPA also identified a study containing alternative k values for five different bioreactor landfills.[70] One commenter urged the EPA to consider more representative k values when calculating emission reductions from wet landfills, and cited several studies for EPA review.[71] [72] [73] This commenter also requested that the EPA adopt shorter lag times for these wet landfills. Another commenter urged the EPA to finalize the changes proposed in 2009 to AP–42 emission factors for MSW landfills, which included a much higher k value of 0.3 for wet landfills, among other changes.[74] Another commenter provided input that leachate recirculation will have negligible impact on the total precipitation value that ultimately dictates which k value to use. This commenter also referenced its prior comments expressing concerns that the draft AP–42 k value for wet landfills was too high, and provided several studies containing alternative k values for wet landfills.[75] [76] [77]

Given the additional emission reductions that could be achieved from shortening the lag times at wet landfills and in consideration of the President's Methane Strategy, the EPA is soliciting input on whether the wet landfills not subject to the requirements in 40 CFR part 63, subpart AAAA should be subject to different schedules for installing and expanding their GCCS under the Emission Guidelines. Additionally, the EPA requests comment on how these wet landfills that are not bioreactors (as defined in subpart AAAA) might be defined. Finally, recognizing the wide range of k values used to model emissions at wet landfills (0.057 to 0.3), the EPA requests comment and data to support revising the k value used for assessing the impacts on wet landfills, as well as the k value landfills should use in Tier 1 and Tier 2 emission threshold determinations. The EPA also requests comment on whether revisions to the k value for wet landfills would require changes to the Lo modeling parameter for wet landfills.

D. Monitoring Wellhead Flowrate

Based on comments received and discussed in section VI.B of this preamble, as well as the proposal to eliminate the operating standards for oxygen/nitrogen and temperature, the EPA is requesting input on whether it should add a requirement to monitor wellhead flowrate to help ensure a well-operated GCCS. Monitoring wellhead flow rate would allow the landfill owner or operator to detect low gas flow and whether a well is waterlogged, clogged, or pinched. The EPA is also requesting comment on any other wellhead monitoring parameters that would help ensure a well-operated GCCS.

E. Third-Party Design Plan Certification Program

In the ANPRM for existing landfills (79 FR 41784, July 17, 2014), the EPA solicited input on the possibility of establishing a third-party design plan certification program and provided examples of several rules and programs with third-party verification components. The third-party program would supplement or replace the current approach of requiring EPA or state review and approval of site-specific design plans and plan revisions with a program whereby independent third parties would review the design plans, determine whether they conform to applicable regulatory criteria, and report their findings to the approved state programs or the EPA (for states without approved programs). The process of approving site-specific design plans and plan revisions can be extremely resource-intensive for regulators and regulated entities alike. The EPA believes modifying the regulations to provide for the review and approval of the plans by competent and independent third parties could reduce these burdens. Such an independent program would need to be designed to ensure that, among other things, the third parties are competent, accurate, independent, and appropriately accredited. The program would also need to ensure that the reviews are thorough, independent, and conducted pursuant to clear and objective design plan review criteria. Finally, the program would need to ensure that the system is transparent, including requiring appropriate public disclosures, and that there is regular and effective oversight of the third-party system. Some criteria for auditor competence, independence, reporting, and oversight requirements provisions might include the following:

- Engaging a third-party inspection team (team) and submitting the members' resumes and qualifications to EPA;
- Requiring the team to have at least one person with landfill industry expertise acceptable to the EPA, one expert in environmental compliance auditing, and one expert in chemical process safety management;
- Restricting team members to those who have not previously performed work for the respondents;
- Restricting team members from working for the respondents or any of the respondents' officers for 5 years after completion of inspections;
- After giving the respondents notice of the first upcoming inspection, restricting the team from

[70] Barlaz, Morton et al., Performance of North American Bioreactor Landfills II: Chemical and Biological Characteristics. Journal of Environmental Engineering. Volume 136, No. 8. August 2010.

[71] Xiaoming Wang et al., *Using Observed Data to Improve Estimated Methane Collection From Select U.S. Landfills,* Environ. Sci. Technol. 3251, 3256 (2013).

[72] Hamid R. Amini et al., Comparison of First-Order Decay Modeled and Actual Field Measured Municipal Solid Waste Landfill Methane Data, 33 Waste Management 2720, 2725 (2013).

[73] *Barlaz* et al., Controls on Landfill Gas Collection Efficiency: Instantaneous and Lifetime Performance *59 J. Air & Waste Mgmt. Ass'n 1399, 1402–03 (Dec. 2009).*

[74] U.S. EPA AP 42, Fifth Edition, Volume I, Chapter 2, Draft Section 2.4: Solid Waste Disposal *http://www.epa.gov/ttn/chief/ap42/ch02/draft/d02s04.pdf.*

[75] Staley, B.F. and M.A. Barlaz, 2009, ''Composition of Municipal Solid Waste in the U.S. and Implications for Carbon Sequestration and Methane Yield,'' Journal of Environmental Engineering, Vol. 135, No. 10, October 1, 2009.

[76] U.S. EPA, Landfill Bioreactor Performance, Second Interim Report; EPN600/R–07/060, Office of Research and Development, National Risk Management Laboratory: Cincinnati, OH, 2006.

[77] Tolaymat, T.M., Green, R.B., Hater, G.R., Barlaz, M.A., Black, P., Bronston, D., and J. Powell, ''Evaluation of Landfill Gas Decay Constant for Municipal Solid Waste Landfills Operated as Bioreactors.'' Submitted to the Journal of the Air & Waste Management Association. 2009.

communicating with its respondents unless EPA is copied on the communication (communications during on-site inspections are excepted);

- Unannounced follow-up inspections with no notice to respondents but advance notice to the EPA;
- Restricting respondents from having control over the timing of any of the follow-up inspections;
- Having the EPA or the delegated authority retain the right to accompany the team on any inspection;
- Within 15 days of each inspection, requiring the team to simultaneously submit to the EPA and the respondents an inspection report, photographs, and digital video of the inspection;
- Denying the opportunity to review any draft or final inspection report before its submittal.

The EPA developed the above provisions based on the theoretical and empirical research for best practices for independent third-party audits.

Commenters on the ANPRM generally did not support a third-party design plan certification program and cited several reasons. Commenters noted that the ANPRM (79 FR 41772) discussion of the program was overly general and that the EPA did not adequately describe the possible design features. One commenter expressed concerns that the examples of third-party certification presented in the ANPRM are neither comparable nor relevant to the review of MSW landfill GCCS design plans. One commenter acknowledged that a third-party reviewer system could reduce the burden and backlog experienced by reviewing agencies, but expressed concern that the costs of verification would be significant. Another commenter indicated the EPA did not present any economic and implementation impacts concerning such a program in the ANPRM and requested that EPA provide more details. Commenters also expressed concern about finding consultants that would be free of conflicts of interest given the consolidated nature of the MSW landfill industry. One commenter noted that cost and potential conflicts of interest were cited as reasons that the EPA did not adopt a third-party certification program for the GHGRP. Another commenter agreed that there was the potential for conflicts of interest and stated that design plan review is an essential government oversight and should not be delegated. Commenters also urged the EPA to thoroughly review the many issues that could arise with a third-party certification program and urged the EPA to take further notice and comment before promulgating such a program.

Several commenters on the ANPRM (79 FR 41772) solicited additional details on components of a proposed third-party certification program, and the EPA is providing further details in this proposal. In this document, the EPA is also seeking additional input on the possibility of establishing a third-party design certification program. This preamble discussion provides notice of the key features the EPA is considering in such a program to ensure the integrity of such a program, including the use of effective auditors and audits. See the docketed memorandum ''Using Third-Party Audits to Improve Compliance'' for additional specificity regarding such third-party design features with supporting studies, articles, and reports.

1. Definition and Characteristics of Independent Third-Party Compliance Verification

Third-party compliance verification occurs when an independent third party verifies to a regulator that a regulated entity is meeting or conforming to one or more compliance obligations (in the literature and other regulations, the terms ''certifier,'' ''auditor,'' or ''inspector'' are also used to describe such verifiers). Independent third-party programs are distinct from programs whereby regulated sources employ contractors or consultants, even if they are separate legal entities from the regulated facilities and are highly qualified. When contractors or consultants report to facilities directly, have other non-audit business or relationships with the facilities, and/or the facilities are able to control or influence the audit reports' form and/or content, this is not independent third-party verification but rather enhanced self-auditing.

2. Third-Party Audit Program Considerations and Characteristics

Based on careful review of the literature,[78] the EPA believes independent third-party programs can be effective, but only if properly designed and overseen. The most critical considerations in designing successful third-party auditing programs are building in provisions and procedures for ensuring auditors are competent and independent. The EPA seeks comment on the suitability of an independent third-party verification program for landfills that includes the following design elements to ensure its effectiveness and integrity: The use of competent and independent auditors; accurate audits; public transparency; and effective regulatory oversight. See also the docketed memorandum ''Using Third-Party Audits to Improve Compliance'' for a review of additional design features the EPA is considering and more detailed information on the features listed below:

a. A requirement that the auditing (verifying) firm, including any corporate parent and/or subsidiaries and the actual persons responsible for the audit, neither have had any prior business or family relationship with the firm being audited in the past five years, nor have worked on the development or implementation of the project/process subject to the audit.

b. A requirement that the auditing firm (including its corporate parent and/or subsidiaries, if any) is prohibited from engaging in any business transactions with the firm it is auditing for at least five years after the audit is completed.

c. A requirement that the verifying entity and the specific auditors hold appropriate professional and educational credentials issued by either the government entity that would otherwise review the plan or an independent professional organization (accreditation board) neither funded nor associated with the regulated sector.

d. A requirement that the auditing firm share all drafts and the final version of its audits with the government entity before, or at the same time, as it shares them with the regulated entity.

e. A requirement that appropriate auditing standards and protocols be spelled out, including, if possible, by reference to identified standards established by outside entities, *e.g.,* International Organization for Standardization (ISO), American National Standards Institute (ANSI), ASTM International (ASTM), etc.

f. A requirement that audit reports, including names of key persons involved in the audits, be made accessible to the public subject to protecting confidential business information (CBI) and national security information

g. Requirements to ensure that the verifying firms operate with integrity, competence, and independence and that the regulator audit, *i.e.,* review or ''backcheck,'' including some number of on-site inspections, a significant percentage (*e.g.,* 10 percent) of the auditing firms and their audit reports.

The EPA is requesting comments regarding the appropriate professional and educational credentials

[78] Lesley K. McAllister, Regulation by Third-Party Verification, 53 Boston C. L Rev. 1, 21–26 (Jan. 2012).

requirements for auditors. For example, should auditors be licensed professional engineers? In addition based upon comments received, the EPA also requests information concerning the costs associated with third-party certification design plans.

The EPA is also considering defining more specifically what it means for an auditor to be independent, *i.e.,* what potential conflicts of interest such as being employees of parent company, affiliates, or vendors/contractors that are currently working in the landfill industry, could exclude an auditor from qualifying as independent. Criteria for, and research on, competence and independence are discussed further below.

The EPA is also considering allowing a person at the facility who is a registered professional engineer to conduct the audit at the facility, *i.e.,* first party/self-auditing, instead of requiring independent third-party audits. If self-auditing is authorized, the EPA seeks comment on how best to structure it to maximize auditor independence and accurate auditing outcomes. Under the *U.S. CARB* v. *Hyundai Motor Company, et al.* consent decree, for example, until the consent decrees corrective measures are fully implemented, the defendants must audit their fleets to ensure that vehicles sold to the public conform to the vehicles' certification. The consent decree provides that the audit team will be in the United States, will be independent from the group that performed the original certification work, and must perform their audits without access to or knowledge of the defendants' original certification test data, which the consent decree-required audits are intended to backcheck.[79] The EPA seeks comment as to whether similar restrictions should be placed on any self-auditing conducted under the MSW landfills Emission Guidelines.

As another alternative approach, the EPA could require auditors to have accreditation by a recognized accrediting body. Several of the examples that have already been provided of existing or proposed federal or state independent third-party auditing programs in rules use this approach. The EPA thus seeks comment on whether third-party auditors should be required to receive accreditation by a recognized accrediting body. The EPA also seeks comment on the standards such accrediting bodies should be required to meet, *e.g.,* International Organization for Standardization (ISO)/IEC 17011:2004(E), Conformity Assessments—General Requirements for Accreditation Bodies Accrediting Conformity Assessments Bodies (First Edition).

There are advantages to third-party auditing, particularly with strong auditor competence and independence criteria. According to the Center for Chemical Process Safety (CCPS), ''Third-party auditors (typically, consulting companies who can provide experienced auditors) potentially provide the highest degree of objectivity.'' [80] The Administrative Conference of the United States (ACUS), in its *Recommendation on Agency Use of Third-Party Programs to Assess Regulatory Compliance* (December 6, 2012), found that, when well-designed and implemented per the Recommendation, ''[s]everal broad reasons support the growing use of third-party programs in federal regulation.'' Specifically, ACUS found that ''. . . federal regulatory agencies are faced with assuring the compliance of an increasing number of entities and products without a corresponding growth in agency resources. Third-party programs may leverage private resources and expertise in ways that make regulation more effective and less costly. In comparison with other regulatory approaches, third-party programs may also enable more frequent compliance assessment and more complete and reliable compliance data'' [81] A leading scholar on regulatory third-party programs likewise found that, when well-designed and implemented, ''third-party verification could furnish more and better data about regulatory compliance'' while providing additional compliance and resource savings benefits.[82]

All independent third-party compliance verification programs establish criteria and standards for auditor competence. Typically, such criteria and standards combine specified minimum levels of education, knowledge, experience, and training. Auditors should be knowledgeable and experienced with the facility type and processes being audited. The applicable recognized and generally accepted good engineering practices, trained or certified in proper third-party auditing techniques, and licensed professional engineers should be employed where appropriate. The EPA seeks comment on whether these criteria are appropriate and sufficient to ensure that auditors are competent to perform high-quality auditing.

3. Public Disclosure/Transparency

It is EPA policy that both the government and the public have appropriate access to information about regulated entities and their compliance status. This includes relevant information on the operation of any independent third-party programs. The EPA seeks comment on what information associated with such a program for landfills should be publicly disclosed and how to disclose it.

4. E-Reporting of Audit Reports and Certifications

Pursuant to EPA's Policy Statement on E-Reporting in EPA Regulations (September 30, 2013), ''[t]he Policy of the [EPA] is to [b]egin the regulatory development process with the assumption that all reporting will be electronic, unless there is a compelling reason to use paper reporting. Consistent with that policy, the EPA is requesting comment on requiring independent third-party auditors to provide their audit reports and associated certification statements (see discussion below) to EPA electronically and seeks comment on how to best design the e-reporting system to facilitate its use by the regulated facilities and third-party auditors.

5. Facility and Third-Party Auditor Certification Statements

EPA's experience shows that requiring a responsible corporate or third-party official to attest to self-monitoring, reporting, and third-party auditing can help ensure that appropriate officials are personally familiar with the reported information and reminds them of the penalties associated with knowingly submitting false information. The EPA intends to require such language for any third-party audit reports under these emission guidelines and requests comment on its wording. The EPA also requests comment on whether the Agency should, for this rule, require regulated facilities and/or third-party auditors to

[79] Press Release: *http://yosemite.epa.gov/OPA/ADMPRESS.NSF/d0cf6618525a9efb85257359003fb69d/15519081fbf4002285257d8500477615!OpenDocument*; Detailed settlement info.: *http://www2.epa.gov/enforcement/hyundai-and-kia-clean-air-act-settlement*; *Consent Decree: http://www2.epa.gov/sites/production/files/2014-11/documents/hyundai-kia-cd.pdf.*

[80] Guidelines for Risk Based Process Safety, March 2007. CCPS. *http://www.aiche.org/ccps/resources/publications/books/guidelines-risk-based-process-safety.*

[81] Administrative Conference of the United States (ACUS); Administrative Conference Recommendation 2012–7; Agency Use of Third-Party Programs to Assess Regulatory Compliance (Adopted December 6, 2012) at 3–4. *https://www.acus.gov/recommendation/agency-use-third-party-programs-assess-regulatory-compliance.*

[82] Lesley K. McAllister, Regulation by Third-Party Verification, 53 Boston C. L Rev. 1, 21–26 (Jan. 2012).

publicly post their certifications to their qualifications to conduct the audit and/or the accuracy and completeness of the audit reports.

6. Examples of Independent Third-Party Programs in Other Rules

Third-party audits or other forms of compliance verification are also required by a variety of final or proposed EPA programs to promote compliance with regulatory standards. Examples of proposed or final federal environmental regulatory programs with built-in third-party verification include the following rules and rulemakings:

• EPA CAA Renewable Fuel Standard (RFS) program: The RFS regulations include requirements for obligated parties to: (1) Meet annual attest engagement requirements using independent certified public accountants (the purpose of attest engagements is to provide regulated parties an independent review of their compliance with both the fuels requirements themselves as well as the regulated party's internal systems to monitor and document compliance); (2) submit independent third-party engineering reviews to the EPA before generating Renewable Identification Numbers.[83]

• EPA CAA wood stoves rule: Residential wood heaters (which include stoves) contribute significantly to particulate air pollution. Wood stove model lines that are in compliance with the wood stoves rule are referred to as EPA-certified wood stoves. The EPA's certification process requires manufacturers to verify that each of their wood stove model lines meet a specific particulate emission limit by undergoing emission testing at an EPA-accredited laboratory.[84]

F. Use of Portable Analyzers for Monitoring Oxygen

In the proposed NSPS (79 FR 41796), as well as 40 CFR 60.37f(a)(2) of the proposed Emission Guidelines, landfill owners or operators must use Method 3A or Method 3C when monitoring the oxygen and nitrogen levels at the wellhead, unless an alternative test method is established. Several commenters on the proposed NSPS requested that the EPA specify that portable gas composition analyzers are an acceptable alternative to Methods 3A or 3C, and noted that these devices are commonly used in practice to measure wellhead parameters and calibrated according to the manufacturer's specifications. Currently, approval of these analyzers are done on a case-by-case basis. In proposed 40 CFR part 60, subpart Cf, the EPA has not listed portable gas composition analyzers for determining oxygen or nitrogen levels. The EPA did not receive any data supporting these comments as to why the analyzers could not be calibrated according to Method 3A and maintains that proper calibration of portable gas composition analyzers is important for generating accurate results. The EPA is requesting data or information on the use of a portable gas composition analyzer according to Method 3A. The EPA is also requesting data on other reference methods used for calibrating these analyzers.

XI. Impacts of Proposed Revisions

For most Emission Guidelines, the EPA analyzes the impacts in the year the standard is implemented. Assuming the Emission Guidelines are promulgated in the summer of 2016, states have 9 months to prepare a state plan implementing the guidelines (March 2017) and the EPA has 4 months to review the plan (July 2017). If necessary, the state has an additional 2 months to revise and submit a corrected plan based on any comments from the EPA (September 2017). Concurrently, the EPA must promulgate a federal plan within 6 months after the state plan is due, consistent with 60.27(d), or March 2018. So, the EPA-approved state plan and updated federal plan implementing the Emission Guidelines are expected to become effective in March 2018. While 2018 is the estimated implementation year, the proposed reporting and control timeframe allows 3 months to submit the first NMOC emission report and then 30 months after exceeding the NMOC emission threshold before the GCCS is required to be installed. So, the first year of controls under the proposed revisions would be 2021.

The EPA is assessing impacts in year 2025 as a representative year for the landfills Emission Guidelines. While the year 2025 differs somewhat from the expected first year of implementation for the Emission Guidelines (year 2018), the number of existing landfills required to install controls under the proposed 2.5/34 option in year 2025 is comparable (within 2 percent of those required to control in the estimated first year of implementation. Further, year 2025 represents a year in which several of the landfills subject to control requirements have had to expand their GCCS according the expansion lag times set forth in proposed subpart Cf. The methodology for estimating the impacts of the Emission Guidelines is discussed in section V.B of this preamble and in the docketed memorandum ''Revised Methodology for Cost and Emission Impacts of Landfill Regulations (2015).'' The results of applying this methodology to the population of existing landfills potentially subject to each of the regulatory options are in the docketed memorandum ''Revised Cost and Emission Impacts Resulting from the Landfill EG Review (2015).'' Table 3 of this preamble summarizes the emission reductions and costs associated with the control options considered.

A. What are the air quality impacts?

This proposal would achieve nearly an additional 5 percent reduction in NMOC from existing landfills, or 2,770 Mg/yr, when compared to the baseline, as shown in Table 5 of this preamble. The proposal would also achieve substantial reductions in methane emissions. These reductions are achieved by reducing the NMOC threshold from 50 Mg/yr to 34 Mg/yr as proposed at open landfills.

TABLE 5—EMISSION REDUCTIONS IN 2025 FOR EXISTING LANDFILLS SUBJECT TO ADDITIONAL CONTROLS UNDER PROPOSED OPTION 2.5/34

Parameter	Quantity
Baseline NMOC Emission Reductions(Mg) [a]	57,300.
Proposed Incremental NMOC Emission Reductions (Mg)	2,770.
Baseline Methane Emission Reductions (Mg) [a]	9,035,000.
Proposed Incremental Methane Emission Reductions (Mg)	436,100.
Baseline Methane Emission Reductions (million $mtCO_2e$) [a]	226.

[83] EPA, Renewable Fuel Standards (RFS), *http://www.epa.gov/OTAQ/fuels/renewablefuels/.*

[84] EPA, Wood Heater Compliance Monitoring Program, *https://www.federalregister.gov/articles/2015/03/16/2015-03733/standards-of-performance-for-new-residential-wood-heaters-new-residential-hydronic-heaters-and.*

TABLE 5—EMISSION REDUCTIONS IN 2025 FOR EXISTING LANDFILLS SUBJECT TO ADDITIONAL CONTROLS UNDER PROPOSED OPTION 2.5/34—Continued

Parameter	Quantity
Proposed Incremental Methane Emission Reductions (million $mtCO_2e$)	10.9.
% Emission Reduction from Proposal	5% below baseline.

[a] These are the reductions that would be achieved from existing landfills if 40 CFR part 60, subpart Cf retained the same gas collection and control requirements that are in 40 CFR part 60, subparts WWW and Cc.

B. What are the water quality and solid waste impacts?

Leachate is the liquid that passes through the landfilled waste and strips contaminants from the waste as the leachate percolates. Precipitation generates the vast majority of leachate volume. Installation of a gas collection system will generate additional liquid, in the form of gas condensate, and it will be routed to the same leachate treatment mechanisms in place for controlling precipitation-based leachate. Collected leachate can be treated on site or transported off site to wastewater treatment facilities. Some landfills have received permits allowing for recirculation of leachate in the landfill, which may further reduce the volume of leachate requiring treatment. Additional liquid generated from gas condensate is not expected to be significant and insufficient data are available to estimate the increases in leachate resulting from expanded gas collection and control requirements.

The additional GCCS components required by this proposal have finite lifetimes (approximately 15 years) and these pipes and wells will be capped or disposed of at the end of their useful life. There are insufficient data to quantify the solid waste resulting from disposal of this control infrastructure.

Further, the incremental costs of control for the proposal are not expected to have an appreciable market effect on the waste disposal costs, tipping fees, or the amount of solid waste disposed in landfills because the costs for gas collection represent a small portion of the overall costs to design, construct, and operate a landfill. There is insufficient information to quantify the effect increased gas control costs might have on the amount of solid waste disposed of in landfills versus other disposal mechanisms such as recycling, waste-to-energy, or composting. Note that elements of this proposed rule—notably lowering the NMOC threshold to 34 Mg/yr—provide additional incentives to separate waste.

C. What are the secondary air impacts?

Secondary air impacts may include grid emissions from purchasing electricity to operate the GCCS components, by-product emissions from combustion of LFG in flares or energy recovery devices, and offsets to conventional grid emissions from new LFG energy supply.

The secondary air impacts are presented as net impacts, considering both the energy demand and energy supply resulting from the proposal. The methodology used to prepare the estimated secondary impacts for this preamble is discussed in the docketed memorandum ''Estimating Secondary Impacts of the Landfills Emission Guidelines Review. 2015.''

While we do expect NO_X and sulfur dioxide (SO_2) emission changes as a result of these guidelines, we expect these changes to be small and these changes have not been estimated. The net impacts were computed for CO_2e. After considering the offsets from LFG electricity, the impacts of the proposal are expected to reduce CO_2 emissions by 238,000 metric tons per year. These CO_2 emission reductions are in addition to the methane emission reductions achieved from the direct destruction of methane in flares or engines presented in Table 3 of this preamble.

D. What are the energy impacts?

The proposal is expected to have a very minimal impact on energy supply and consumption. Active gas collection systems require energy to operate the blowers and pumps and the proposal will increase the volume of landfill gas collected. When the least cost control is a flare, energy may be purchased from the grid to operate the blowers of the landfill gas collection system. However, when the least cost control option is an engine, the engine may provide this energy to the gas control system and then sell the excess to the grid. Considering the balance of energy generated and demanded from the estimated least cost controls, the proposal is estimated to supply 0.4 million megawatt hours (MWh) of additional energy per year.

E. What are the cost impacts?

To meet the proposed control requirements, a landfill is expected to install the least cost control for combusting the landfill gas. The cost estimates (described in sections V of this preamble) evaluated each landfill to determine whether a gas collection and flare or a gas collection with flare and engine equipment would be least cost, after considering local power buyback rates and whether the quantity of landfill gas was sufficient to generate electricity. The control costs include the costs to install and operate gas collection infrastructure such as wells, header pipes, blowers, and an enclosed flare. For landfills where the least cost control option was an engine, the costs also include the cost to install and operate one or more reciprocating internal combustion engines to convert the landfill gas into electricity. Revenue from electricity sales was incorporated into the net control costs using state-specific data on wholesale purchase prices, where engines were deemed to be the least cost control option. Testing and monitoring costs at controlled landfills include the cost to conduct initial performance tests on the enclosed flare or engine control equipment, quarterly surface monitoring, continuous combustion monitoring, and monthly wellhead monitoring. At uncontrolled landfills, the testing and monitoring costs include calculation and reporting of NMOC emission rates.

The nationwide incremental annualized net cost for the proposal is $46.8 million, when using a 7 percent discount rate, of which $0.7 million is testing and monitoring costs. Table 6 of this preamble presents the costs.

TABLE 6—INCREMENTAL COST IMPACTS IN 2025 FOR EXISTING LANDFILLS SUBJECT TO ADDITIONAL CONTROLS UNDER THE PROPOSAL

Option	Total number of landfills incurring cost [a]	Annualized control cost	Average annualized revenue	Average annualized testing and monitoring cost	Average net total annualized cost
Total Costs of Baseline ($2012)					
Baseline 2.5/50 (2.5 million Mg design capacity/50 Mg/yr NMOC)	785	1,700	1,408	7.3	299
Incremental Costs Above Baseline ($2012)					
Proposed Option 2.5/34 (2.5 million Mg design capacity/34 Mg/yr NMOC)	0	101	55.3	0.7	46.8

[a] At the baseline, 574 of the landfills are controlling in 2025 and an additional 211 landfills are expected to submit NMOC emission reports, but are not yet controlling for a total of 785. In the proposed option, the total landfills incurring cost are also 785, but the proposal is estimated to require controls at 680 landfills and the remaining 105 landfills are expected to submit NMOC emission reports, but are not yet controlling.

F. What are the economic impacts?

Because of the relatively low net cost of the proposed option compared to the overall size of the MSW industry, as well as the lack of appropriate economic parameters or model, the EPA is unable to estimate the impacts of the options on the supply and demand for MSW landfill services. However, because of the relatively low incremental costs of the proposal, the EPA does not believe the proposal would lead to substantial changes in supply and demand for landfill services or waste disposal costs, tipping fees, or the amount of waste disposed in landfills. Hence, the overall economic impact of the proposal should be minimal on the affected industries and their consumers.

G. What are the benefits?

The proposal is expected to result in significant emissions reductions from existing MSW landfills. By lowering the NMOC emissions threshold to 34 Mg/yr, the proposal would achieve reductions of 2,770 Mg/yr NMOC and 436,100 Mg/yr methane (10.9 million $mtCO_2e$/yr). In addition, the proposal is expected to result in the net reduction of 238,000 Mg CO_2, due to reduced demand for electricity from the grid as landfills generate electricity from landfill gas.

This rule is expected to result in significant health and welfare benefits resulting from the climate benefits due to anticipated methane and CO_2 reductions. Methane is a potent GHG that, once emitted into the atmosphere, absorbs terrestrial infrared radiation that contributes to increased global warming and continuing climate change. Methane reacts in the atmosphere to form tropospheric ozone and stratospheric water vapor, both of which also contribute to global warming. When accounting for the impacts of changing methane, tropospheric ozone, and stratospheric water vapor concentrations, the Intergovernmental Panel on Climate Change (IPCC) 5th Assessment Report (2013) found that historical emissions of methane accounted for about 30 percent of the total current warming influence (radiative forcing) due to historical emissions of greenhouse gases. Methane is therefore a major contributor to the climate change impacts described in section III.B of this preamble. The remainder of this section discusses the methane reductions expected from this proposed rule and the associated monetized benefits.

As discussed in section IV of this preamble, this rulemaking proposes several changes to the Emission Guidelines for MSW landfills that would decrease methane emissions from this sector. Specifically, the proposed changes are expected to reduce methane emissions from all landfills annually by about 436,100 metric tons of methane.

We estimate the global social benefits of these methane emission reductions using estimates of the social cost of methane ($SC\text{-}CH_4$), a metric that estimates the monetary value of impacts associated with marginal changes in methane emissions in a given year. The $SC\text{-}CH_4$ estimates applied in this analysis were developed by Marten et al. (2014) and are discussed in greater detail below.

A similar metric, the social cost of CO_2 ($SC\text{-}CO_2$), provides important context for understanding the Marten et al. $SC\text{-}CH_4$ estimates.[85] The $SC\text{-}CO_2$ is a metric that estimates the monetary value of impacts associated with marginal changes in CO_2 emissions in a given year. It includes a wide range of anticipated climate impacts, such as net changes in agricultural productivity and human health, property damage from increased flood risk, and changes in energy system costs, such as reduced costs for heating and increased costs for air conditioning. Estimates of the $SC\text{-}CO_2$ have been used by the EPA and other federal agencies to value the impacts of CO_2 emissions changes in benefit cost analysis for GHG-related rulemakings since 2008.

The $SC\text{-}CO_2$ estimates were developed over many years, using the best science available, and with input from the public. Specifically, an interagency working group (IWG) that included the EPA and other executive branch agencies and offices used three integrated assessment models (IAMs) to develop the $SC\text{-}CO_2$ estimates and recommended four global values for use in regulatory analyses. The $SC\text{-}CO_2$ estimates were first released in February 2010 and updated in 2013 using new versions of each IAM.

The 2010 $SC\text{-}CO_2$ Technical Support Document (TSD) provides a complete discussion of the methods used to develop these estimates and the current $SC\text{-}CO_2$ TSD presents and discusses the 2013 update (including recent minor technical corrections to the estimates).[86]

The $SC\text{-}CO_2$ TSDs discuss a number of limitations to the $SC\text{-}CO_2$ analysis, including the incomplete way in which the IAMs capture catastrophic and non-catastrophic impacts, their incomplete treatment of adaptation and technological change, uncertainty in the

[85] Previous analyses have commonly referred to the social cost of carbon dioxide emissions as the social cost of carbon or SCC. To more easily facilitate the inclusion of non-CO_2 GHGs in the discussion and analysis the more specific $SC\text{-}CO_2$ nomenclature is used to refer to the social cost of CO_2 emissions.

[86] Both the 2010 $SC\text{-}CO_2$ TSD and the current TSD are available at: *https://www.whitehouse.gov/omb/oira/social-cost-of-carbon.*

extrapolation of damages to high temperatures, and assumptions regarding risk aversion. Current IAMs do not assign value to all of the important physical, ecological, and economic impacts of climate change recognized in the climate change literature due to a lack of precise information on the nature of damages and because the science incorporated into these models understandably lags behind the most recent research. Nonetheless, these estimates and the discussion of their limitations represent the best available information about the social benefits of CO_2 reductions to inform benefit-cost analysis. The EPA and other agencies continue to engage in research on modeling and valuation of climate impacts with the goal to improve these estimates, and continue to consider feedback on the SC-CO_2 estimates from stakeholders through a range of channels, including public comments received on Agency rulemakings, a separate recent OMB public comment solicitation, and through regular interactions with stakeholders and research analysts implementing the SC-CO_2 methodology. See the docketed Regulatory Impacts Analysis (RIA) for additional details.

A challenge particularly relevant to this proposal is that the IWG did not estimate the social costs of non-CO_2 GHG emissions at the time the SC-CO_2 estimates were developed. In addition, the directly modeled estimates of the social costs of non-CO_2 GHG emissions previously found in the published literature were few in number and varied considerably in terms of the models and input assumptions they employed [87] (EPA 2012). As a result, benefit-cost analyses informing U.S. federal rulemakings to date have not fully considered the monetized benefits associated with CH_4 emissions mitigation. To understand the potential importance of monetizing non-CO_2 GHG emissions changes, the EPA has conducted sensitivity analysis in some of its past regulatory analyses using an estimate of the GWP of CH_4 to convert emission impacts to CO_2 equivalents, which can then be valued using the SC-CO_2 estimates. This approach approximates the social cost of methane (SC-CH_4) using estimates of the SC-CO_2 and the GWP of CH_4.

The published literature documents a variety of reasons that directly modeled estimates of SC-CH_4 are an analytical improvement over the estimates from the GWP approximation approach. Specifically, several recent studies found that GWP-weighted benefit estimates for CH_4 are likely to be lower than the estimates derived using directly modeled social cost estimates for these gases.[88] The GWP reflects only the relative integrated radiative forcing of a gas over 100 years in comparison to CO_2. The directly modeled social cost estimates differ from the GWP-scaled SC-CO_2 because the relative differences in timing and magnitude of the warming between gases are explicitly modeled, the non-linear effects of temperature change on economic damages are included, and rather than treating all impacts over a hundred years equally, the modeled damages over the time horizon considered (2300 in this case) are discounted to present value terms. A detailed discussion of the limitations of the GWP approach can be found in the RIA.

In general, the commenters on previous rulemakings strongly encouraged the EPA to incorporate the monetized value of non-CO_2 GHG impacts into the benefit cost analysis. However they noted the challenges associated with the GWP approach, as discussed above, and encouraged the use of directly modeled estimates of the SC-CH_4 to overcome those challenges.

Since these previous rulemakings, a paper by Marten et al. (2014) has provided the first set of published SC-CH_4 and social cost of nitrous oxide (SC-N_2O) estimates in the peer-reviewed literature that are consistent with the modeling assumptions underlying the SC-CO_2 estimates.[89] Specifically, the estimation approach of Marten et al. used the same set of three IAMs, five socioeconomic-emissions scenarios, equilibrium climate sensitivity distribution, three constant discount rates, and aggregation approach used to develop the SC-CO_2 estimates.

The SC-CH_4 estimates from Marten, et al. (2014) are presented in Table 7 of this preamble. More detailed discussion of the methodology, results, and a comparison to other published estimates can be found in the RIA and in Marten, et al.

TABLE 7—SOCIAL COST OF CH_4, 2012–2050 [a]

[In 2012$ per metric ton; (Source: Marten et al., 2014 [b])]

Year	SC-CH_4			
	5% Average	3% Average	2.5% Average	3% 95th percentile
2012	$430	$1000	$1400	$2800
2015	490	1100	1500	3000
2020	580	1300	1700	3500
2025	700	1500	1900	4000
2030	820	1700	2200	4500
2035	970	1900	2500	5300
2040	1100	2200	2800	5900
2045	1300	2500	3000	6600
2050	1400	2700	3300	7200

[a] The values are emissions-year specific. Estimates using several discount rates are included because the literature shows that estimates of the SC-CO_2 (and SC-CH_4) are sensitive to assumptions about the discount rate, and because no consensus exists on the appropriate rate to use in an intergenerational context (where costs and benefits are incurred by different generations). The fourth value is the 95th percentile of the SC-CH_4 estimates across three models using a 3 percent discount rate. It is included to represent higher-than-expected impacts from temperature change further out in the tails of the SC-CH_4 distribution.

[b] The estimates in this table have been adjusted to reflect the recent minor technical corrections to the SC-CO_2 estimates described above. See the RIA for more details.

[87] U.S. EPA. 2012. Regulatory Impact Analysis Final New Source Performance Standards and Amendments to the National Emissions Standards for Hazardous Air Pollutants for the Oil and Natural Gas Industry. Office of Air Quality Planning and Standards, Health and Environmental Impacts Division. April. *http://www.epa.gov/ttn/ecas/regdata/RIAs/oil_natural_gas_final_neshap_nsps_ria.pdf.* Accessed March 30, 2015.

[88] See Waldhoff et al (2011); Marten and Newbold (2012); and Marten et al. (2014).

[89] Marten, A.L., E.A. Kopits, C.W. Griffiths, S.C. Newbold & A. Wolverton (2014). Incremental CH_4 and N_2O mitigation benefits consistent with the U.S. Government's SC-CO_2 estimates, Climate Policy, DOI: 10.1080/14693062.2014.912981.

The application of these directly modeled SC-CH_4 estimates from Marten *et al.* (2014) in a benefit-cost analysis of a regulatory action is analogous to the use of the SC-CO_2 estimates. In addition, the limitations for the SC-CO_2 estimates discussed above likewise apply to the SC-CH_4 estimates, given the consistency in the methodology.

The EPA recently conducted a peer review of the application of the Marten, et al. (2014) non-CO_2 social cost estimates in regulatory analysis and received responses that supported this application. See the RIA for a detailed discussion.

In light of the favorable peer review and past comments urging the EPA to value non-CO_2 GHG impacts in its rulemakings, the agency has used the Marten et al. (2014) SC-CH_4 estimates to value methane impacts expected from this proposed rulemaking and has included those benefits in the main benefits analysis. The EPA seeks comments on the use of these directly modeled estimates, from the peer-reviewed literature, for the social cost of non-CO_2 GHGs in this rulemaking.

The CH_4 benefits based on Marten *et al.* (2014) are presented for the year 2025. Applying this approach to the methane reductions estimated for this proposal, the 2025 methane benefits vary by discount rate and range from about $310 million to approximately $1.7 billion; the mean SC-CH_4 at the 3-percent discount rate results in an estimate of about $660 million in 2025, as presented in Table 8 of this preamble.

TABLE 8—ESTIMATED GLOBAL BENEFITS OF CH_4 REDUCTIONS IN 2025

[In millions, 2012$]

Million metric tons CH_4	Discount rate and statistic			
	5% Average	3% Average	2.5% Average	3% 95th percentile
0.44	$310	$660	$850	$1,700

The vast majority of this proposal's climate-related benefits are associated with methane reductions. Additional climate-related benefits are expected from the proposal's secondary air impacts, specifically, a net reduction in CO_2 emissions. Monetizing the net CO_2 reductions with the SC-CO_2 estimates described in this section yields benefits of $12 million in the year 2025 (average SC-CO_2, 3 percent discount rate). See the RIA for more details.

In addition to the limitation discussed above, and the referenced documents, there are additional impacts of individual GHGs that are not currently captured in the IAMs used in the directly modeled approach of Marten et al. (2014), and therefore not quantified for the rule. For example, the NMOC portion of LFG can contain a variety of air pollutants, including VOC and various organic HAP. VOC emissions are precursors to both $PM_{2.5}$ and ozone formation, while methane is a GHG and a precursor to global ozone formation. These pollutants are associated with substantial health effects, welfare effects, and climate effects, which are discussed in section III.B of this preamble. The ozone generated by methane, has important non-climate impacts on agriculture, ecosystems, and human health. The RIA describes the specific impacts of methane as an ozone precursor in more detail and discusses studies that have estimated monetized benefits of these methane generated ozone effects. The EPA continues to monitor developments in this area of research and seeks comment on the potential inclusion of health impacts of ozone generated by methane in future regulatory analysis.

Finally, this proposal is also expected to result in improvements in air quality and resulting benefits to human health. With the data available, we are not able to provide health benefit estimates for the reduction in exposure to HAP, ozone, and $PM_{2.5}$ for this rule. This is not to imply that there are no benefits of the rules; rather, it is a reflection of the difficulties in modeling the direct and indirect impacts of the reductions in emissions for this sector with the data currently available.[90] In addition to health improvements, there will be improvements in visibility effects, ecosystem effects, and climate effects.

Although we do not have sufficient information or modeling available to provide quantitative estimates of the health benefits associated with HAP, ozone, and $PM_{2.5}$ reductions, we include a qualitative assessment of the health effects associated with exposure to HAP, ozone, and $PM_{2.5}$ in the RIA for this rule. These qualitative impact assessments are briefly summarized in section III.B of this preamble, but for more detailed information, please refer to the RIA, which is available in the docket.

[90] Previous studies have estimated the monetized benefits-per-ton of reducing VOC emissions associated with the effect that those emissions have on ambient $PM_{2.5}$ levels and the health effects associated with $PM_{2.5}$ exposure (Fann, Fulcher, and Hubbell, 2009). While these ranges of benefit-per-ton estimates can provide useful context, the geographic distribution of VOC emissions from the MSW landfills sector are not consistent with emissions modeled in Fann, Fulcher, and Hubbell (2009). In addition, the benefit-per-ton estimates for VOC emission reductions in that study are derived from total VOC emissions across all sectors. Coupled with the larger uncertainties about the relationship between VOC emissions and $PM_{2.5}$ and the highly localized nature of air quality responses associated with HAP and VOC reductions, these factors lead us to conclude that the available VOC benefit-per-ton estimates are not appropriate to calculate monetized benefits of these rules, even as a bounding exercise.

XII. Statutory and Executive Order Reviews

Additional information about these statues and Executive Orders can be found at *http://www2.epa.gov/laws-regulations/laws-and-executive-orders.*

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

This action is an economically significant regulatory action that was submitted to OMB for review. Any changes made in response to OMB recommendations have been documented in the docket. The EPA prepared an economic analysis of the potential costs and benefits associated with the proposed Emission Guidelines. The analysis is documented in the RIA, which is available in docket EPA–HQ–OAR–2014–0451 and is briefly summarized in section V.E of this preamble.

B. Paperwork Reduction Act

The information collection requirements in the proposed Emission Guidelines have been submitted for approval to OMB under the PRA. The Information Collection Request (ICR) document that the EPA prepared for the proposed Emission Guidelines has been assigned EPA ICR number [2522.01]. You can find a copy of the ICR in the

docket for this rule, and it is briefly summarized here.

The information required to be collected is necessary to identify the regulated entities subject to the proposed rule and to ensure their compliance with the proposed Emission Guidelines. The recordkeeping and reporting requirements are mandatory and are being established under authority of CAA section 114 (42 U.S.C. 7414). All information other than emissions data submitted as part of a report to the agency for which a claim of confidentiality is made will be safeguarded according to CAA section 114(c) and the EPA's implementing regulations at 40 CFR part 2, subpart B.

Respondents/affected entities: MSW landfills that accepted waste after November 8, 1987 and commenced construction, reconstruction, or modification on or before July 17, 2014.

Respondent's obligation to respond: Mandatory (40 CFR part 60, subpart Cf).

Estimated number of respondents: 989 MSW landfills.

Frequency of response: Initially, occasionally and annually.

Total estimated burden: 621,947 hours (per year) for the responding facilities and 16,054 hours (per year) for the agency. These are estimates for the average annual burden for the first 3 years after the rule is final. Burden is defined at 5 CFR 1320.3(b).

Total estimated cost: $41,755,793 (per year), which includes annualized capital or operation and maintenance costs, for the responding facilities and $1,029,658 (per year) for the agency. These are estimates for the average annual cost for the first 3 years after the rule is final.

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.

Submit your comments on the agency's need for this information, the accuracy of the provided burden estimates and any suggested methods for minimizing respondent burden to the EPA using the docket identified at the beginning of this rule. You may also send your ICR-related comments to OMB's Office of Information and Regulatory Affairs via email to *oira_submissions@omb.eop.gov*, Attention: Desk Officer for the EPA. Since OMB is required to make a decision concerning the ICR between 30 and 60 days after receipt, OMB must receive comments no later than September 28, 2015. The EPA will respond to any ICR-related comments in the 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. This action will not impose any requirements on small entities. Specifically, Emission Guidelines established under CAA section 111(d) do not impose any requirements on regulated entities and, thus, will not have a significant economic impact upon a substantial number of small entities. After Emission Guidelines are promulgated, states and U.S. territories establish standards on existing sources, and it is those state requirements that could potentially impact small entities.

Our analysis here is consistent with the analysis of the analogous situation arising when the EPA establishes National Ambient Air Quality Standards (NAAQS), which do not impose any requirements on regulated entities. As here, any impact of a NAAQS on small entities would only arise when states take subsequent action to maintain and/or achieve the NAAQS through their state implementation plans. See American Trucking Assoc. v. EPA, 175 F.3d 1029, 1043–45 (D.C. Cir. 1999) (NAAQS do not have significant impacts upon small entities because NAAQS themselves impose no regulations upon small entities).

Nevertheless, the EPA is aware that there is substantial interest in the rule among small entities. The EPA has conducted stakeholder outreach as detailed in section XI.C and XI.E of the preamble to the proposed Standards of Performance for MSW Landfills (79 FR 41828–41829; July 17, 2014) and in sections XII.D and XII.E of this preamble. The EPA convened a Small Business Advocacy Review (SBAR) Panel in 2013 for the landfills rulemaking. The EPA originally planned a review of the Emission Guidelines and NSPS in one action, but the actions were subsequently divided into separate rulemakings. The SBAR Panel evaluated the assembled materials and small-entity comments on issues related to the rule's potential effects and significant alternative regulatory approaches. A copy of the Summary of Small Entity Outreach is available in the rulemaking docket EPA–HQ–OAR–2014–0451. While formulating the provisions of the rule, the EPA considered the input provided over the course of the stakeholder outreach as well as the input provided in the many public comments, and we have incorporated many of the suggestions in this proposal.

D. Unfunded Mandates Reform Act (UMRA)

This action does not contain any unfunded mandate of $100 million or more as described in UMRA, 2 U.S.C. 1531–1538. The proposed Emission Guidelines apply to landfills that were constructed, modified, or reconstructed after November 8, 1987, and that commenced construction, reconstruction, or modification on or before July 17, 2014. Impacts resulting from the proposed Emission Guidelines are below the applicable threshold.

We note however, that the proposed Emission Guidelines may significantly or uniquely affect small governments because small governments operate landfills. The EPA consulted with small governments concerning the regulatory requirements that might significantly or uniquely affect them. In developing this rule, the EPA consulted with small governments pursuant to a plan established under section 203 of the UMRA to address impacts of regulatory requirements in the rule that might significantly or uniquely affect small governments. The EPA also held meetings as discussed in section XII.E of this preamble under Federalism consultations.

E. Executive Order 13132: Federalism

The EPA has concluded that the proposed Emission Guidelines have federalism implications, because the rule imposes substantial direct compliance costs on state or local governments, and the federal government will not provide the funds necessary to pay those costs.

The EPA conducted a Federalism Consultation Outreach Meeting on September 10, 2013. Due to interest in that meeting, additional outreach meetings were held on November 7, 2013 and November 14, 2013. With the pending proposal of these Emission Guidelines, an additional Federalism outreach meeting was conducted on April 15, 2015. Participants included the National Governors' Association, the National Conference of State Legislatures, the Council of State Governments, the National League of Cities, the U.S. Conference of Mayors, the National Association of Counties, the International City/County Management Association, the National Association of Towns and Townships, the County Executives of America, the Environmental Council of States, National Association of Clean Air Agencies, Association of State and Territorial Solid Waste Management Officials, environmental agency representatives from 43 states, and

approximately 60 representatives from city and county governments. Concerns raised during the consultations include: Implementation concerns associated with shortening of gas collection system installation and/or expansion timeframes, concerns regarding significant lowering of the design capacity or emission thresholds, the need for clarifications associated with wellhead operating parameters and the need for consistent, clear and rigorous surface monitoring requirements.

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 database used to estimate impacts of the proposed 40 CFR part 60, subpart Cf identified one tribe, the Salt River Pima-Maricopa Indian Community, which owns three landfills potentially subject to the proposed Emission Guidelines. One of these landfills is open, the Salt River Landfill, and is already controlling emissions under the current NSPS/EG framework, so while subject to this subpart, the costs of this proposal are not substantial. The two other landfills are closed and anticipated to meet the definition of the closed landfill subcategory. One of the closed landfills, the Tri Cities Landfill, is already controlling emissions under the current NSPS/EG framework and will not incur substantial additional compliance costs under Cf. The other landfill, North Center Street Landfill, is not estimated to install controls under the current NSPS/EG framework.

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. The proposed Emission Guidelines are not subject to Executive Order 13045 because they do not concern an environmental health risk or safety risk. We also note that the methane and NMOC reductions expected from the proposed Emission Guidelines will have positive health effects including for children as previously discussed in section XII.G of this preamble.

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

This action is not a ''significant energy action'' because it is not likely to have a significant adverse effect on the supply, distribution, or use of energy. Further, we have concluded that the proposed Emission Guidelines are not likely to have any adverse energy effects because the energy demanded to operate these control systems will be offset by additional energy supply from landfill gas energy projects.

I. National Technology Transfer and Advancement Act

The proposed Emission Guidelines involve technical standards. For the proposed Emission Guidelines, the EPA has decided to use EPA Methods 2, 2E, 3, 3A, 3C, 21, 25, 25A, and 25C of 40 CFR part 60, appendix A. While the EPA identified 10 VCS as being potentially applicable (ANSI/ASME PTC 19–10–1981 Part 10, ASME B133.9–1994 (2001), ISO 10396:1993 (2007), ISO 12039:2001, ASTM D5835–95 (2013), ASTM D6522–11, CAN/CSA Z223.2–M86 (1999), ASTM D6060–96 (2009), ISO 14965:2000(E), EN 12619(1999)), the agency decided not to use these methods. The EPA determined that the 10 candidate VCS identified for measuring emissions of pollutants or their surrogates subject to emission standards in the rule would not be practical due to lack of equivalency, documentation, validation data, and other important technical and policy considerations. The agency identified no such standards for Methods 2E, 21, and 25C. The EPA's review, including review of comments for these 10 methods, is documented in the memorandum, ''Voluntary Consensus Standard Results for Emission Guidelines and Compliance Times for Municipal Solid Waste Landfills'' in the docket for this rulemaking (EPA–HQ–OAR–2014–0451).

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 the proposed Emission Guidelines will not have potential disproportionately high and adverse human health or environmental effects on minority, low-income, or indigenous populations because the proposed subpart would reduce emissions of landfill gas, which contains both nonmethane organic compounds and methane. These avoided emissions will improve air quality and reduce public health and welfare effects associated with exposure to landfill gas emissions. The results of the proximity analysis conducted for the proposed Emission Guidelines are located in the April 22, 2015 document entitled, ''2015 Environmental Justice Screening Report for Municipal Solid Waste Landfills,'' a copy of which is available in the docket (Docket ID No. EPA–HQ–OAR–2003–0215).

List of Subjects in 40 CFR Part 60

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

Dated: August 14, 2015.

Gina McCarthy,

Administrator.

For the reasons set forth in the preamble, the EPA proposes to amend 40 CFR part 60 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.*

■ 2. Part 60 is amended by adding Subpart Cf to read as follows:

Subpart Cf—Emission Guidelines and Compliance Times for Municipal Solid Waste Landfills

Sec

60.30f Scope and delegated authorities.
60.31f Designated facilities.
60.32f Compliance times.
60.33f Emission Guidelines for municipal solid waste landfill emissions.
60.34f Operational standards.
60.35f Test methods and procedures.
60.36f Compliance provisions.
60.37f Monitoring of operations.
60.38f Reporting guidelines.
60.39f Recordkeeping guidelines.
60.40f Specifications for active collection systems.
60.41f Definitions.

Subpart Cf—Emission Guidelines and Compliance Times for Municipal Solid Waste Landfills

§ 60.30f Scope and delegated authorities.

This subpart establishes Emission Guidelines and compliance times for the control of designated pollutants from certain designated municipal solid waste (MSW) landfills in accordance with section 111(d) of the Clean Air Act and subpart B of this part.

(a) If you are the Administrator of an air quality program in a State or United States protectorate with one or more existing MSW landfills that commenced construction, modification, or

reconstruction on or before July 17, 2014, you must submit a State plan to the U.S. Environmental Protection Agency (EPA) that implements the Emission Guidelines contained in this subpart. The requirements for State plans are specified in subpart B of this part.

(b) You must submit a State plan to EPA by [date 9 months after the final rule is published in the **Federal Register**].

(c) The following authorities will not be delegated to state, local, or tribal agencies:

(1) Approval of alternative methods to determine the NMOC concentration or a site-specific methane generation rate constant (k).

(2) [Reserved]

§ 60.31f Designated facilities.

(a) The designated facility to which these Emission Guidelines apply is each existing MSW landfill for which construction, reconstruction, or modification was commenced on or before July 17, 2014.

(b) Physical or operational changes made to an existing MSW landfill solely to comply with an emission guideline are not considered a modification or reconstruction and would not subject an existing MSW landfill to the requirements of a standard of performance for new MSW landfills.

(c) For purposes of obtaining an operating permit under title V of the Clean Air Act, the owner or operator of an MSW landfill subject to this subpart with a design capacity less than 2.5 million megagrams or 2.5 million cubic meters is not subject to the requirement to obtain an operating permit for the landfill under part 70 or 71 of this chapter, unless the landfill is otherwise subject to either part 70 or 71. For purposes of submitting a timely application for an operating permit under part 70 or 71, the owner or operator of an MSW landfill subject to this subpart with a design capacity greater than or equal to 2.5 million megagrams and 2.5 million cubic meters on the effective date of EPA approval of the State's program under section 111(d) of the Clean Air Act, and not otherwise subject to either part 70 or 71, becomes subject to the requirements of §§ 70.5(a)(1)(i) or 71.5(a)(1)(i) of this chapter 90 days after the effective date of such section 111(d) program approval, even if the design capacity report is submitted earlier.

(d) When an MSW landfill subject to this subpart is closed as defined in this subpart, the owner or operator is no longer subject to the requirement to maintain an operating permit under part 70 or 71 of this chapter for the landfill if the landfill is not otherwise subject to the requirements of either part 70 or 71 and if either of the following conditions are met:

(1) The landfill was never subject to the requirement to install and operate a gas collection and control system under § 60.33f; or

(2) The landfill meets the conditions for control system removal specified in § 60.33f(f).

(e) When an MSW landfill subject to this subpart is in the closed landfill subcategory, the owner or operator is not subject to the following reports of this subpart, provided the owner or operator submitted these reports under the provisions of 40 CFR part 60, subpart WWW; 40 CFR part 62, subpart GGG; or a state plan implementing 40 CFR part 60, subpart Cc on or before August 27, 2015:

(1) Initial design capacity report specified in §§ 60.33f(d) and 60.38f(a)

(2) Initial or subsequent NMOC emission rate report specified in §§ 60.33f(e) and 60.38f(c), provided that the most recent NMOC emission rate report indicated the NMOC emissions were below 50 Mg/yr.

(3) Collection and control system design plan specified in § 60.38f(d).

(4) Closure report specified in § 60.38f(f).

(5) Equipment removal specified in § 60.38f(g).

(6) Initial annual report specified in § 60.38f(h).

(7) Initial performance test report in § 60.38f(i).

§ 60.32f Compliance times.

Planning, awarding of contracts, installing, and starting up MSW landfill air emission collection and control equipment that is capable of meeting the Emission Guidelines under § 60.33f must be completed within 30 months after the date an NMOC emission rate report shows NMOC emissions equal or exceed 34 megagrams per year (50 megagrams per year for the closed landfill subcategory) or within 30 months after the date Tier 4 surface emissions monitoring shows a surface emission concentration of 500 parts per million methane or greater.

§ 60.33f Emission Guidelines for municipal solid waste landfill emissions.

(a) *Landfills.* For approval, a State plan must require each owner or operator of an MSW landfill having a design capacity greater than or equal to 2.5 million megagrams by mass and 2.5 million cubic meters by volume to collect and control MSW landfill emissions at each MSW landfill that meets the following conditions:

(1) The landfill has accepted waste at any time since November 8, 1987, or has additional design capacity available for future waste deposition.

(2) The landfill commenced construction, reconstruction, or modification on or before July 17, 2014.

(3) The landfill has an NMOC emission rate greater than or equal to 34 megagrams per year or the Tier 4 surface emissions report shows a surface emission concentration of 500 parts per million methane or greater.

(4) A landfill in the closed landfill subcategory that has an NMOC emission rate greater than or equal to 50 megagrams per year or the Tier 4 surface emissions report shows a surface emission concentration of 500 parts per million methane or greater.

(b) *Collection system.* For approval, a State plan must include provisions for the installation of a collection and control system meeting the requirements in paragraphs (b)(1) through (3) and (c) of this section at each MSW landfill meeting the conditions in paragraph (a) of this section.

(1) Install and start up a collection and control system that captures the gas generated within the landfill within 30 months after:

(i) The first annual report in which the emission rate equals or exceeds 34 megagrams per year, unless Tier 2 or Tier 3 sampling demonstrates that the emission rate is less than 34 megagrams per year, as specified in § 60.38f(c)(5)(i) or (ii),

(ii) The emission rate at a landfill in the closed landfill subcategory equals or exceeds 50 megagrams per year, unless Tier 2 or Tier 3 sampling demonstrates that the emission rate is less than 50 megagrams per year, as specified in § 60.38f(c)(5)(iv)(A) or (B), or

(iii) The Tier 4 surface emissions report shows that surface methane emissions are below 500 parts per million methane for four consecutive quarters, as specified in § 60.38f(c)(5)(iii).

(2) An active collection system must:

(i) Be designed to handle the maximum expected gas flow rate from the entire area of the landfill that warrants control over the intended use period of the gas control system equipment.

(ii) Collect gas from each area, cell, or group of cells in the landfill in which the initial solid waste has been placed for a period of 5 years or more if active; or 2 years or more if closed or at final grade.

(iii) Collect gas at a sufficient extraction rate.

(iv) Be designed to minimize offsite migration of subsurface gas.

(3) A passive collection system must:

(i) Comply with the provisions specified in paragraphs (b)(2)(i), (ii), and (iv) of this section.

(ii) Be installed with liners on the bottom and all sides in all areas in which gas is to be collected. The liners must be installed as required under § 258.40.

(c) *Control system.* For approval, a State plan must include provisions for the control of the gas collected from within the landfill through the use of control devices meeting the following requirements, except as provided in § 60.24.

(1) A non-enclosed flare designed and operated in accordance with the parameters established in § 60.18 except as noted in § 60.37f(c); or

(2) A control system designed and operated to reduce NMOC by 98 weight percent; or when an enclosed combustion device is used for control, to either reduce NMOC by 98 weight percent or reduce the outlet NMOC concentration to less than 20 parts per million by volume, dry basis as hexane at 3 percent oxygen or less. The reduction efficiency or concentration in parts per million by volume must be established by an initial performance test to be completed no later than 180 days after the initial startup of the approved control system using the test methods specified in § 60.35f(d). The performance test is not required for boilers and process heaters with design heat input capacities equal to or greater than 44 megawatts that burn landfill gas for compliance with this subpart.

(i) If a boiler or process heater is used as the control device, the landfill gas stream must be introduced into the flame zone.

(ii) The control device must be operated within the parameter ranges established during the initial or most recent performance test. The operating parameters to be monitored are specified in § 60.37f.

(iii) For the closed landfill subcategory, the initial or most recent performance test conducted to comply with 40 CFR part 60, subpart WWW; 40 CFR part 62, subpart GGG; or a state plan implementing subpart Cc of this part on or before August 27, 2015 is sufficient for compliance with this subpart.

(3) Route the collected gas to a treatment system that processes the collected gas for subsequent sale or beneficial use such as fuel for combustion, production of vehicle fuel, production of high-Btu gas for pipeline injection, or use as a raw material in a chemical manufacturing process. Venting of treated landfill gas to the ambient air or combustion in a flare is not allowed under this option. (If flares are used, they must meet the requirements in paragraphs (c)(1) or (2) of this section.)

(4) All emissions from any atmospheric vent from the gas treatment system are subject to the requirements of paragraph (b) or (c) of this section. For purposes of this subpart, atmospheric vents located on the condensate storage tank are not part of the treatment system and are exempt from the requirements of paragraph (b) or (c) of this section.

(d) *Design capacity.* For approval, a State plan must require each owner or operator of an MSW landfill having a design capacity less than 2.5 million megagrams by mass or 2.5 million cubic meters by volume to submit an initial design capacity report to the Administrator as provided in § 60.38f(a). The landfill may calculate design capacity in either megagrams or cubic meters for comparison with the exemption values. Any density conversions must be documented and submitted with the report. Submittal of the initial design capacity report fulfills the requirements of this subpart except as provided in paragraphs (d)(1) and (2) of this section.

(1) The owner or operator must submit an amended design capacity report as provided in § 60.38f(b). [Guidance: Note that if the design capacity increase is the result of a modification, as defined in this subpart, that was commenced after July 17, 2014, the landfill will become subject to subpart XXX of this part instead of this subpart. If the design capacity increase is the result of a change in operating practices, density, or some other change that is not a modification as defined in this subpart, then the landfill remains subject to this subpart.]

(2) When an increase in the maximum design capacity of a landfill with an initial design capacity less than 2.5 million megagrams or 2.5 million cubic meters results in a revised maximum design capacity equal to or greater than 2.5 million megagrams and 2.5 million cubic meters, the owner or operator must comply with paragraph (e) of this section.

(e) *Emissions.* For approval, a State plan must require each owner or operator of an MSW landfill having a design capacity equal to or greater than 2.5 million megagrams and 2.5 million cubic meters to either install a collection and control system as provided in paragraphs (b) and (c) of this section or calculate an initial NMOC emission rate for the landfill using the procedures specified in § 60.35f(a). The NMOC emission rate must be recalculated annually, except as provided in § 60.38f(c)(3).

(1) If the calculated NMOC emission rate is less than 34 megagrams per year, the owner or operator must:

(i) Submit an annual NMOC emission rate report according to § 60.38f(c); and

(ii) Recalculate the NMOC emission rate annually using the procedures specified in § 60.35f(a) until such time as the calculated NMOC emission rate is equal to or greater than 34 megagrams per year, or the landfill is closed.

(A) If the NMOC emission rate, upon initial calculation or annual recalculation, is equal to or greater than 34 megagrams per year, the owner or operator must either: submit a gas collection and control system design plan as specified in § 60.38f(d) and install a collection and control system as provided in paragraphs (b) and (c) of this section; calculate NMOC emissions using the next higher tier in § 60.35f; or conduct a surface emission monitoring demonstration using the procedures specified in § 60.35f(a)(6).

(B) If the landfill is permanently closed, a closure report must be submitted to the Administrator as provided in § 60.38f(f), except for exemptions allowed under § 60.31f(e)(4).

(C) For the closed landfill subcategory, if the most recently calculated NMOC emission rate is equal to or greater than 50 megagrams per year, the owner or operator must either: submit a gas collection and control system design plan as specified in § 60.38f(d), except for exemptions allowed under 60.31f(e)(3), and install a collection and control system as provided in paragraphs (b) and (c) of this section; calculate NMOC emissions using the next higher tier in § 60.35f; or conduct a surface emission monitoring demonstration using the procedures specified in § 60.35f(a)(6).

(2) If the calculated NMOC emission rate is equal to or greater than 34 megagrams per year using Tier 1, 2, or 3 procedures, the owner or operator must either: submit a collection and control system design plan prepared by a professional engineer to the Administrator within 1 year as specified in § 60.38f(d); calculate NMOC emissions using a higher tier in § 60.35f; or conduct a surface emission monitoring demonstration using the procedures specified in § 60.35f(a)(6).

(3) For the closed landfill subcategory, if the calculated NMOC emission rate is equal to or greater than 50 megagrams per year using Tier 1, 2, or 3 procedures,

the owner or operator must either: submit a collection and control system design plan prepared by a professional engineer to the Administrator within 1 year as specified in § 60.38f(d), except for exemptions allowed under 60.31f(e)(3); calculate NMOC emissions using a higher tier in § 60.35f; or conduct a surface emission monitoring demonstration using the procedures specified in § 60.35f(a)(6).

(f) *Removal criteria.* The collection and control system may be capped or removed if the criteria in paragraph (f)(1), (f)(2), and either (f)(3), (f)(4), or (f)(5) of this section are met:

(1) The landfill is closed or an area of an open landfill is closed as defined in § 60.41f. A closure report must be submitted to the Administrator as provided in § 60.38f(f);

(2) The collection and control system must have been in operation a minimum of 15 years or the landfill owner or operator must demonstrate that the GCCS will be unable to operate for 15 years due to declining gas flow; and

(3) The landfill or closed area demonstrates for four consecutive quarters that there are no surface emissions of 500 parts per million or greater as determined using procedures specified in § 60.36f(d);

(4) Following the procedures specified in § 60.35f(b), the calculated NMOC emission rate at the landfill must be less than 34 megagrams per year on three successive test dates. The test dates must be no less than 90 days apart, and no more than 180 days apart; or

(5) For the closed landfill subcategory, following the procedures specified in § 60.35f(b), the calculated NMOC emission rate at the landfill must be less than 50 megagrams per year on three successive test dates. The test dates must be no less than 90 days apart, and no more than 180 days apart.

§ 60.34f Operational standards.

For approval, a State plan must include provisions for the operational standards in this section for an MSW landfill with a gas collection and control system used to comply with the provisions of § 60.33f(b) and (c). Each owner or operator of an MSW landfill with a gas collection and control system used to comply with the provisions of § 60.33f(b) must:

(a) Operate the collection system such that gas is collected from each area, cell, or group of cells in the MSW landfill in which solid waste has been in place for:

(1) 5 years or more if active; or

(2) 2 years or more if closed or at final grade;

(b) Operate the collection system with negative pressure at each wellhead except under the following conditions:

(1) A fire or increased well temperature. The owner or operator must record instances when positive pressure occurs in efforts to avoid a fire. These records must be submitted with the annual reports as provided in § 60.38f(h)(1);

(2) Use of a geomembrane or synthetic cover. The owner or operator must develop acceptable pressure limits in the design plan;

(3) A decommissioned well. A well may experience a static positive pressure after shut down to accommodate for declining flows. All design changes must be approved by the Administrator as specified in § 60.38f(d);

(c) [Reserved]

(d) Operate the collection system so that the methane concentration is less than 500 parts per million above background at the surface of the landfill. To determine if this level is exceeded, the owner or operator must conduct surface testing around the perimeter of the collection area and along a pattern that traverses the landfill at no more than 30-meter intervals and where visual observations indicate elevated concentrations of landfill gas, such as distressed vegetation and cracks or seeps in the cover and all cover penetrations. Thus, the owner or operator must monitor any openings that are within an area of the landfill where waste has been placed and a gas collection system is required. The owner or operator may establish an alternative traversing pattern that ensures equivalent coverage. A surface monitoring design plan must be developed that includes a topographical map with the monitoring route and the rationale for any site-specific deviations from the 30-meter intervals. Areas with steep slopes or other dangerous areas may be excluded from the surface testing.

(e) Operate the system such that all collected gases are vented to a control system designed and operated in compliance with § 60.33f(c). In the event the collection or control system is not operating, the gas mover system must be shut down and all valves in the collection and control system contributing to venting of the gas to the atmosphere must be closed within 1 hour; and

(f) Operate the control system at all times when the collected gas is routed to the system.

(g) If monitoring demonstrates that the operational requirements in paragraphs (b) or (d) of this section are not met, corrective action must be taken as specified in § 60.36f(a)(3) through (4) or § 60.36f(c). If corrective actions are taken as specified in § 60.36f, the monitored exceedance is not a violation of the operational requirements in this section.

§ 60.35f Test methods and procedures.

For approval, a State plan must include provisions in this section to calculate the landfill NMOC emission rate or to conduct a surface emission monitoring demonstration.

(a)(1) The landfill owner or operator must calculate the NMOC emission rate using either the equation provided in paragraph (a)(1)(i) of this section or the equation provided in paragraph (a)(1)(ii) of this section. Both equations may be used if the actual year-to-year solid waste acceptance rate is known, as specified in paragraph (a)(1)(i) of this section, for part of the life of the landfill and the actual year-to-year solid waste acceptance rate is unknown, as specified in paragraph (a)(1)(ii) of this section, for part of the life of the landfill. The values to be used in both equations are 0.05 per year for k, 170 cubic meters per megagram for Lo, and 4,000 parts per million by volume as hexane for the CNMOC. For landfills located in geographical areas with a 30-year annual average precipitation of less than 25 inches, as measured at the nearest representative official meteorologic site, the k value to be used is 0.02 per year.

(i)(A) The following equation must be used if the actual year-to-year solid waste acceptance rate is known.

$$M_{NMOC} = \sum_{i=1}^{n} 2\,k\,L_o M_i (e^{-kt_i})(C_{NMOC})(3.6\,x\,10^{-9})$$

Where:

M_{NMOC} = Total NMOC emission rate from the landfill, megagrams per year.

k = Methane generation rate constant, year − 1.

L_o = Methane generation potential, cubic meters per megagram solid waste.

M_i = Mass of solid waste in the ith section, megagrams.

t_i = Age of the ith section, years.

CNMOC = Concentration of NMOC, parts per million by volume as hexane.
$3.6 \times 10-9$ = Conversion factor.

(B) The mass of nondegradable solid waste may be subtracted from the total mass of solid waste in a particular section of the landfill when calculating the value for Mi if documentation of the nature and amount of such wastes is maintained.

(ii)(A) The following equation must be used if the actual year-to-year solid waste acceptance rate is unknown.

$$M_{NMOC} = 2L_oR\ (e-kc-e-kt)\ C_{NMOC}(3.6 \times 10-9)$$

Where:

M_{NMOC} = Mass emission rate of NMOC, megagrams per year.
L_o = Methane generation potential, cubic meters per megagram solid waste.
R = Average annual acceptance rate, megagrams per year.
k = Methane generation rate constant, year − 1.
t = Age of landfill, years.
C_{NMOC} = Concentration of NMOC, parts per million by volume as hexane.
c = Time since closure, years; for an active landfill c = 0 and e − kc = 1.
$3.6 \times 10-9$ = Conversion factor.

(B) The mass of nondegradable solid waste may be subtracted from the total mass of solid waste in a particular section of the landfill when calculating the value of R, if documentation of the nature and amount of such wastes is maintained.

(2) *Tier 1.* The owner or operator must compare the calculated NMOC mass emission rate to the standard of 34 megagrams per year.

(i) If the NMOC emission rate calculated in paragraph (a)(1) of this section is less than 34 megagrams per year, then the owner or operator must submit an NMOC emission rate report according to § 60.38f(c), and must recalculate the NMOC mass emission rate annually as required under § 60.33f(e).

(ii) If the NMOC emission rate calculated in paragraph (a)(1) of this section is equal to or greater than 34 megagrams per year, then the landfill owner or operator must either:

(A) Submit a gas collection and control system design plan as specified in § 60.38f(d) within 1 year and install and operate a gas collection and control system according to § 60.33f(b) and (c) within 30 months;

(B) Determine a site-specific NMOC concentration and recalculate the NMOC emission rate using the Tier 2 procedures provided in paragraph (a)(3) of this section;

(C) Determine a site-specific methane generation rate constant and recalculate the NMOC emission rate using the Tier 3 procedures provided in paragraph (a)(4) of this section; or

(D) Conduct a surface emission monitoring demonstration using the Tier 4 procedures specified in paragraph (a)(6) of this section.

(3) *Tier 2.* The landfill owner or operator must determine the site-specific NMOC concentration using the following sampling procedure. The landfill owner or operator must install at least two sample probes per hectare of landfill surface that has retained waste for at least 2 years. If the landfill is larger than 25 hectares in area, only 50 samples are required. The sample probes should be located to avoid known areas of nondegradable solid waste. The owner or operator must collect and analyze one sample of landfill gas from each probe to determine the NMOC concentration using Method 25 or 25C of appendix A of this part. Taking composite samples from different probes into a single cylinder is allowed; however, equal sample volumes must be taken from each probe. For each composite, the sampling rate, collection times, beginning and ending cylinder vacuums, or alternative volume measurements must be recorded to verify that composite volumes are equal. Composite sample volumes should not be less than one liter unless evidence can be provided to substantiate the accuracy of smaller volumes. Terminate compositing before the cylinder approaches ambient pressure where measurement accuracy diminishes. If more than the required number of samples is taken, all samples must be used in the analysis. The landfill owner or operator must divide the NMOC concentration from Method 25 or 25C of appendix A of this part by six to convert from CNMOC as carbon to CNMOC as hexane. If the landfill has an active or passive gas removal system in place, Method 25 or 25C samples may be collected from these systems instead of surface probes provided the removal system can be shown to provide sampling as representative as the two sampling probe per hectare requirement. For active collection systems, samples may be collected from the common header pipe. The sample location on the common header pipe must be before any gas moving, condensate removal, or treatment system equipment. For active collection systems, a minimum of three samples must be collected from the header pipe.

(i) Within 60 days after the date of determining the NMOC concentration and corresponding NMOC emission rate, the owner or operator must submit the results according to § 60.38f(j).

(ii) The landfill owner or operator must recalculate the NMOC mass emission rate using the equations provided in paragraph (a)(1)(i) or (a)(1)(ii) of this section using the average site-specific NMOC concentration from the collected samples instead of the default value provided in paragraph (a)(1) of this section.

(iii) If the NMOC mass emission rate is less than 34 megagrams per year, then the owner or operator must submit an NMOC emission rate report according to § 60.38f(c), and must recalculate the NMOC mass emission rate annually as required under § 60.33f(e). The site-specific NMOC concentration must be retested every 5 years using the methods specified in this section.

(iv) If the NMOC mass emission rate as calculated using the Tier 2 site-specific NMOC concentration is equal to or greater than 34 megagrams per year, the owner or operator must either:

(A) Submit a gas collection and control system design plan as specified in § 60.38f(d) within 1 year and install and operate a gas collection and control system according to § 60.33f(b) and (c) within 30 months;

(B) Determine a site-specific methane generation rate constant and recalculate the NMOC emission rate using the site-specific methane generation rate using the Tier 3 procedures specified in paragraph (a)(4) of this section; or

(C) Conduct a surface emission monitoring demonstration using the Tier 4 procedures specified in paragraph (a)(6) of this section.

(4) *Tier 3.* The site-specific methane generation rate constant must be determined using the procedures provided in Method 2E of appendix A of this part. The landfill owner or operator must estimate the NMOC mass emission rate using the equations in paragraph (a)(1)(i) or (a)(1)(ii) of this section and using a site-specific methane generation rate constant, and the site-specific NMOC concentration as determined in paragraph (a)(3) of this section instead of the default values provided in paragraph (a)(1) of this section. The landfill owner or operator must compare the resulting NMOC mass emission rate to the standard of 34 megagrams per year.

(i) If the NMOC mass emission rate as calculated using the Tier 2 site-specific NMOC concentration and Tier 3 site-specific methane generation rate is equal to or greater than 34 megagrams per year, the owner or operator must either:

(A) Submit a gas collection and control system design plan as specified in § 60.38f(d) within 1 year and install and operate a gas collection and control

system according to § 60.33f(b) and (c) within 30 months; or

(B) Conduct a surface emission monitoring demonstration using the Tier 4 procedures specified in paragraph (a)(6) of this section.

(ii) If the NMOC mass emission rate is less than 34 megagrams per year, then the owner or operator must recalculate the NMOC mass emission rate annually using the equations in paragraph (a)(1) of this section and using the site-specific Tier 2 NMOC concentration and Tier 3 methane generation rate constant and submit a periodic emission rate report as provided in § 60.38f(c). The calculation of the methane generation rate constant is performed only once, and the value obtained from this test must be used in all subsequent annual NMOC emission rate calculations.

(5) The owner or operator may use other methods to determine the NMOC concentration or a site-specific methane generation rate constant as an alternative to the methods required in paragraphs (a)(3) and (a)(4) of this section if the method has been approved by the Administrator.

(6) *Tier 4.* The landfill owner or operator may demonstrate that surface methane emissions are below 500 parts per million by conducting surface emission monitoring on a quarterly basis using the following procedures.

(i) The owner or operator must measure surface concentrations of methane along the entire perimeter of the landfill and along a pattern that traverses the landfill at no more than 30-meter intervals using an organic vapor analyzer, flame ionization detector, or other portable monitor meeting the specifications provided in paragraph (a)(6)(iv) of this section.

(ii) The background concentration must be determined by moving the probe inlet upwind and downwind at least 30 meters from the waste mass boundary of the landfill.

(iii) Surface emission monitoring must be performed in accordance with section 8.3.1 of Method 21 of appendix A of this part, except that the probe inlet must be placed within 5 to 10 centimeters of the landfill surface. Monitoring must be performed during typical meteorological conditions.

(A) Surface emission monitoring must be terminated when the average wind speed exceeds 5 miles per hour or the instantaneous wind speed exceeds 10 miles per hour. The Administrator may approve alternatives to this wind speed surface monitoring termination for landfills consistently having measured winds in excess of these specified limits. Average wind speed must be determined on a 15-minute average using an onsite anemometer with a continuous recorder for the entire duration of the monitoring event.

(B) Landfill surface areas where visual observations indicate elevated concentrations of landfill gas, such as distressed vegetation and cracks or seeps in the cover, and all cover penetrations must also be monitored using a device meeting the specifications provided in paragraph (a)(6)(iv) of this section.

(iv) Each owner or operator seeking to comply with the provisions in paragraph (a)(6) of this section must comply with the following instrumentation specifications and procedures for surface emission monitoring devices.

(A) The portable analyzer must meet the instrument specifications provided in section 3 of Method 21 of appendix A of this part, except that ''methane'' replaces all references to ''VOC''.

(B) The calibration gas is methane, diluted to a nominal concentration of 500 parts per million in air.

(C) To meet the performance evaluation requirements in section 3.1.3 of Method 21 of appendix A of this part, the instrument evaluation procedures of section 4.4 of Method 21 of appendix A of this part must be used.

(D) The calibration procedures provided in section 4.2 of Method 21 of appendix A of this part must be followed immediately before commencing a surface monitoring survey.

(v) Each owner or operator seeking to comply with the Tier 4 provisions in paragraph (a)(6) of this section must maintain records of surface emission monitoring as provided in § 60.39f(g) and submit a Tier 4 surface emissions report as provided in § 60.38f(c)(5)(iii).

(vi) If there is any measured concentration of methane of 500 parts per million or greater from the surface of the landfill, the owner or operator must submit a gas collection and control system design plan within 1 year of the first measured concentration of methane of 500 parts per million or greater from the surface of the landfill according to § 60.38f(d) and install and operate a gas collection and control system according to § 60.33f(b) and (c) within 30 months of the first measured concentration of methane of 500 parts per million or greater from the surface of the landfill.

(vii) If after four consecutive quarterly monitoring periods there is no measured concentration of methane of 500 parts per million or greater from the surface of the landfill, the owner or operator must either conduct semi-annual surface emission monitoring using the methods specified in this section or recalculate the NMOC mass emission rate annually as provided in § 60.33f(e).

(A) If conducting semi-annual surface emissions monitoring and there is any measured concentration of methane of 500 parts per million or greater from the surface of the landfill, the owner or operator must submit a gas collection and control system design plan within 1 year of the first measured concentration of methane of 500 parts per million or greater from the surface of the landfill according to § 60.38f(d) and install and operate a gas collection and control system according to § 60.33f(b) and (c) within 30 months of the first measured concentration of methane of 500 parts per million or greater from the surface of the landfill.

(B) [Reserved]

(b) After the installation and startup of a collection and control system in compliance with this subpart, the owner or operator must calculate the NMOC emission rate for purposes of determining when the system can be capped or removed as provided in § 60.33f(f), using the following equation:

$$M_{NMOC} = 1.89 \times 10 - 3 Q_{LFG} C_{NMOC}$$

Where:

M_{NMOC} = Mass emission rate of NMOC, megagrams per year.

Q_{LFG} = Flow rate of landfill gas, cubic meters per minute.

C_{NMOC} = NMOC concentration, parts per million by volume as hexane.

(1) The flow rate of landfill gas, Q_{LFG}, must be determined by measuring the total landfill gas flow rate at the common header pipe that leads to the control system using a gas flow measuring device calibrated according to the provisions of section 4 of Method 2E of appendix A of this part.

(2) The average NMOC concentration, C_{NMOC}, must be determined by collecting and analyzing landfill gas sampled from the common header pipe before the gas moving or condensate removal equipment using the procedures in Method 25 or Method 25C of appendix A of this part. The sample location on the common header pipe must be before any condensate removal or other gas refining units. The landfill owner or operator must divide the NMOC concentration from Method 25 or Method 25C of appendix A of this part by six to convert from CNMOC as carbon to C_{NMOC} as hexane.

(3) The owner or operator may use another method to determine landfill gas flow rate and NMOC concentration if the method has been approved by the Administrator.

(i) Within 60 days after the date of calculating the NMOC emission rate for purposes of determining when the

system can be capped or removed, the owner or operator must submit the results according to § 60.38f(j).

(ii) [Reserved]

(c) When calculating emissions for Prevention of Significant Deterioration (PSD) purposes, the owner or operator of each MSW landfill subject to the provisions of this subpart must estimate the NMOC emission rate for comparison to the PSD major source and significance levels in §§ 51.166 or 52.21 of this chapter using Compilation of Air Pollutant Emission Factors, Volume I: Stationary Point and Area Sources (AP–42) or other approved measurement procedures.

(d) For the performance test required in § 60.33f(c)(1), the net heating value of the combusted landfill gas as determined in § 60.18(f)(3) is calculated from the concentration of methane in the landfill gas as measured by Method 3C. A minimum of three 30-minute Method 3C samples are determined. The measurement of other organic components, hydrogen, and carbon monoxide is not applicable. Method 3C may be used to determine the landfill gas molecular weight for calculating the flare gas exit velocity under § 60.18(f)(4).

(1) Within 60 days after the date of completing each performance test (as defined in § 60.8), the owner or operator must submit the results of the performance tests required by § 60.35f(b) or (d), including any associated fuel analyses, according to § 60.38f(j).

(2) [Reserved]

(e) For the performance test required in § 60.33f(c)(2), Method 25 or 25C (Method 25C may be used at the inlet only) of appendix A of this part must be used to determine compliance with the 98 weight-percent efficiency or the 20 parts per million by volume outlet NMOC concentration level, unless another method to demonstrate compliance has been approved by the Administrator as provided by § 60.38f(d). Method 3 or 3A must be used to determine oxygen for correcting the NMOC concentration as hexane to 3 percent. In cases where the outlet concentration is less than 50 ppm NMOC as carbon (8 ppm NMOC as hexane), Method 25A should be used in place of Method 25. The following equation must be used to calculate efficiency:

Control Efficiency = $(NMOC_{in} - NMOC_{out})/(NMOC_{in})$

Where:

$NMOC_{in}$ = Mass of NMOC entering control device.

$NMOC_{out}$ = Mass of NMOC exiting control device.

(1) Within 60 days after the date of completing each performance test (as defined in § 60.8), the owner or operator must submit the results of the performance tests, including any associated fuel analyses, according to § 60.38f(j).

(2) [Reserved]

§ 60.36f Compliance provisions.

For approval, a State plan must include the compliance provisions in this section.

(a) Except as provided in § 60.38f(d)(2), the specified methods in paragraphs (a)(1) through (6) of this section must be used to determine whether the gas collection system is in compliance with § 60.33f(b)(2).

(1) For the purposes of calculating the maximum expected gas generation flow rate from the landfill to determine compliance with § 60.33f(b)(2)(i), one of the following equations must be used. The k and Lo kinetic factors should be those published in the most recent AP–42 or other site-specific values demonstrated to be appropriate and approved by the Administrator. If k has been determined as specified in § 60.35f(a)(4), the value of k determined from the test must be used. A value of no more than 15 years must be used for the intended use period of the gas mover equipment. The active life of the landfill is the age of the landfill plus the estimated number of years until closure.

(i) For sites with unknown year-to-year solid waste acceptance rate:

$Qm = 2LoR\ (e - kc - e - kt)$

Where:

Qm = Maximum expected gas generation flow rate, cubic meters per year.

Lo = Methane generation potential, cubic meters per megagram solid waste.

R = Average annual acceptance rate, megagrams per year.

k = Methane generation rate constant, year − 1.

t = Age of the landfill at equipment installation plus the time the owner or operator intends to use the gas mover equipment or active life of the landfill, whichever is less. If the equipment is installed after closure, t is the age of the landfill at installation, years.

c = Time since closure, years (for an active landfill c = 0 and e − kc = 1).

(ii) For sites with known year-to-year solid waste acceptance rate:

$$Q_{M=} \sum_{i=1}^{n} 2kL_oM_i(e^{-kt_i})$$

Where:

Q_M = Maximum expected gas generation flow rate, cubic meters per year.

k = Methane generation rate constant, year − 1.

L_o = Methane generation potential, cubic meters per megagram solid waste.

M_i = Mass of solid waste in the ith section, megagrams.

t_i = Age of the ith section, years.

(iii) If a collection and control system has been installed, actual flow data may be used to project the maximum expected gas generation flow rate instead of, or in conjunction with, the equations in paragraphs (a)(1)(i) and (ii) of this section. If the landfill is still accepting waste, the actual measured flow data will not equal the maximum expected gas generation rate, so calculations using the equations in paragraphs (a)(1)(i) or (ii) of this section or other methods must be used to predict the maximum expected gas generation rate over the intended period of use of the gas control system equipment.

(2) For the purposes of determining sufficient density of gas collectors for compliance with § 60.33f(b)(2)(ii), the owner or operator must design a system of vertical wells, horizontal collectors, or other collection devices, satisfactory to the Administrator, capable of controlling and extracting gas from all portions of the landfill sufficient to meet all operational and performance standards.

(3) For the purpose of demonstrating whether the gas collection system flow rate is sufficient to determine compliance with § 60.33f(b)(2)(iii), the owner or operator must measure gauge pressure in the gas collection header applied to each individual well monthly. If a positive pressure exists, action must be initiated to correct the exceedance within 5 calendar days, except for the three conditions allowed under § 60.34f(b). If negative pressure cannot be achieved without excess air infiltration within 15 calendar days of the first measurement, the gas collection system must be expanded to correct the exceedance within 120 days of the initial measurement of positive pressure. Any attempted corrective measure must not cause exceedances of other operational or performance standards. An alternative timeline for correcting the exceedance may be submitted to the Administrator for approval.

(4) Owners or operators are not required to expand the system as required in paragraph (a)(3) of this section during the first 180 days after gas collection system startup.

(5) [Reserved]

(6) An owner or operator seeking to demonstrate compliance with § 60.33f(b)(2)(iv) through the use of a collection system not conforming to the specifications provided in § 60.40f must provide information satisfactory to the Administrator as specified in

§ 60.38f(d)(3) demonstrating that offsite migration is being controlled.

(b) For purposes of compliance with § 60.34f(a), each owner or operator of a controlled landfill must place each well or design component as specified in the approved design plan as provided in § 60.38f(d). Each well must be installed no later than 60 days after the date on which the initial solid waste has been in place for a period of:

(1) 5 years or more if active; or

(2) 2 years or more if closed or at final grade.

(c) The following procedures must be used for compliance with the surface methane operational standard as provided in § 60.34f(d):

(1) After installation and startup of the gas collection system, the owner or operator must monitor surface concentrations of methane along the entire perimeter of the collection area and along a pattern that traverses the landfill at no more than 30-meter intervals (or a site-specific established spacing) for each collection area on a quarterly basis using an organic vapor analyzer, flame ionization detector, or other portable monitor meeting the specifications provided in § 60.36f(d).

(2) The background concentration must be determined by moving the probe inlet upwind and downwind outside the boundary of the landfill at a distance of at least 30 meters from the perimeter wells.

(3) Surface emission monitoring must be performed in accordance with section 8.3.1 of Method 21 of appendix A of this part, except that the probe inlet must be placed within 5 to 10 centimeters of the ground. Monitoring must be performed during typical meteorological conditions.

(4) Any reading of 500 parts per million or more above background at any location must be recorded as a monitored exceedance and the actions specified in paragraphs (c)(4)(i) through (v) of this section must be taken. As long as the specified actions are taken, the exceedance is not a violation of the operational requirements of § 60.34f(d).

(i) The location of each monitored exceedance must be marked and the location and concentration recorded. For location, you must determine the latitude and longitude coordinates using an instrument with an accuracy of at least 3 meters. Your coordinates must be in decimal degrees with at least five decimal places.

(ii) Cover maintenance or adjustments to the vacuum of the adjacent wells to increase the gas collection in the vicinity of each exceedance must be made and the location must be re-monitored within 10 calendar days of detecting the exceedance.

(iii) If the re-monitoring of the location shows a second exceedance, additional corrective action must be taken and the location must be monitored again within 10 days of the second exceedance. If the re-monitoring shows a third exceedance for the same location, the action specified in paragraph (c)(4)(v) of this section must be taken, and no further monitoring of that location is required until the action specified in paragraph (c)(4)(v) of this section has been taken.

(iv) Any location that initially showed an exceedance but has a methane concentration less than 500 parts per million methane above background at the 10-day re-monitoring specified in paragraph (c)(4)(ii) or (iii) of this section must be re-monitored 1 month from the initial exceedance. If the 1-month re-monitoring shows a concentration less than 500 parts per million above background, no further monitoring of that location is required until the next quarterly monitoring period. If the 1-month re-monitoring shows an exceedance, the actions specified in paragraph (c)(4)(iii) or (v) of this section must be taken.

(v) For any location where monitored methane concentration equals or exceeds 500 parts per million above background three times within a quarterly period, a new well or other collection device must be installed within 120 calendar days of the initial exceedance. An alternative remedy to the exceedance, such as upgrading the blower, header pipes or control device, and a corresponding timeline for installation may be submitted to the Administrator for approval.

(5) The owner or operator must implement a program to monitor for cover integrity and implement cover repairs as necessary on a monthly basis.

(d) Each owner or operator seeking to comply with the provisions in paragraph (c) of this section must comply with the following instrumentation specifications and procedures for surface emission monitoring devices:

(1) The portable analyzer must meet the instrument specifications provided in section 3 of Method 21 of appendix A of this part, except that ''methane'' must replace all references to ''VOC''.

(2) The calibration gas must be methane, diluted to a nominal concentration of 500 parts per million in air.

(3) To meet the performance evaluation requirements in section 3.1.3 of Method 21 of appendix A of this part, the instrument evaluation procedures of section 4.4 of Method 21 of appendix A of this part must be used.

(4) The calibration procedures provided in section 4.2 of Method 21 of appendix A of this part must be followed immediately before commencing a surface monitoring survey.

(e) The provisions of this subpart apply at all times, including periods of startup, shutdown or malfunction.

§ 60.37f Monitoring of operations.

For approval, a State plan must include the monitoring provisions in this section, except as provided in § 60.38f(d)(2).

(a) Each owner or operator seeking to comply with § 60.33f(b)(2) for an active gas collection system must install a sampling port and a thermometer, other temperature measuring device, or an access port for temperature measurements at each wellhead and:

(1) Measure the gauge pressure in the gas collection header on a monthly basis as provided in § 60.36f(a)(3); and

(2) Monitor nitrogen or oxygen concentration in the landfill gas on a monthly basis as follows:

(i) The nitrogen level must be determined using Method 3C, unless an alternative test method is established as allowed by § 60.38f(d)(2).

(ii) Unless an alternative test method is established as allowed by § 60.38f(d)(2), the oxygen must be determined by an oxygen meter using Method 3A or 3C except that:

(A) The span must be set between 10 and 12 percent oxygen;

(B) A data recorder is not required;

(C) Only two calibration gases are required, a zero and span;

(D) A calibration error check is not required;

(E) The allowable sample bias, zero drift, and calibration drift are ±10 percent.

(3) Monitor temperature of the landfill gas on a monthly basis. The temperature measuring device must be calibrated annually using the procedure in 40 CFR part 60, Appendix A–1, Method 2, Section 10.3.

(b) Each owner or operator seeking to comply with § 60.33f(c) using an enclosed combustor must calibrate, maintain, and operate according to the manufacturer's specifications, the following equipment:

(1) A temperature monitoring device equipped with a continuous recorder and having a minimum accuracy of ±1 percent of the temperature being measured expressed in degrees Celsius or ±0.5 degrees Celsius, whichever is greater. A temperature monitoring device is not required for boilers or

process heaters with design heat input capacity equal to or greater than 44 megawatts.

(2) A device that records flow to or bypass of the control device. The owner or operator must:

(i) Install, calibrate, and maintain a gas flow rate measuring device that must record the flow to the control device at least every 15 minutes; and

(ii) Secure the bypass line valve in the closed position with a car-seal or a lock-and-key type configuration. A visual inspection of the seal or closure mechanism must be performed at least once every month to ensure that the valve is maintained in the closed position and that the gas flow is not diverted through the bypass line.

(c) Each owner or operator seeking to comply with § 60.33f(c) using a non-enclosed flare must install, calibrate, maintain, and operate according to the manufacturer's specifications the following equipment:

(1) A heat sensing device, such as an ultraviolet beam sensor or thermocouple, at the pilot light or the flame itself to indicate the continuous presence of a flame.

(2) A device that records flow to or bypass of the flare. The owner or operator must:

(i) Install, calibrate, and maintain a gas flow rate measuring device that must record the flow to the control device at least every 15 minutes; and

(ii) Secure the bypass line valve in the closed position with a car-seal or a lock-and-key type configuration. A visual inspection of the seal or closure mechanism must be performed at least once every month to ensure that the valve is maintained in the closed position and that the gas flow is not diverted through the bypass line.

(d) Each owner or operator seeking to demonstrate compliance with § 60.33f(c) using a device other than a non-enclosed flare or an enclosed combustor or a treatment system must provide information satisfactory to the Administrator as provided in § 60.38f(d)(2) describing the operation of the control device, the operating parameters that would indicate proper performance, and appropriate monitoring procedures. The Administrator must review the information and either approve it, or request that additional information be submitted. The Administrator may specify additional appropriate monitoring procedures.

(e) Each owner or operator seeking to install a collection system that does not meet the specifications in § 60.40f or seeking to monitor alternative parameters to those required by § 60.34f through § 60.37f must provide information satisfactory to the Administrator as provided in § 60.38f(d)(2) and (3) describing the design and operation of the collection system, the operating parameters that would indicate proper performance, and appropriate monitoring procedures. The Administrator may specify additional appropriate monitoring procedures.

(f) Each owner or operator seeking to demonstrate compliance with the 500 parts per million surface methane operational standard in § 60.34f(d) must monitor surface concentrations of methane according to the procedures provided in § 60.36f(c) and the instrument specifications in § 60.36f(d). Any closed landfill that has no monitored exceedances of the operational standard in three consecutive quarterly monitoring periods may skip to annual monitoring. Any methane reading of 500 parts per million or more above background detected during the annual monitoring returns the frequency for that landfill to quarterly monitoring.

(g) Each owner or operator seeking to demonstrate compliance with the control system requirements in § 60.33f(c) using a landfill gas treatment system must calibrate, maintain, and operate according to the manufacturer's specifications a device that records flow to or bypass of the treatment system. The owner or operator must:

(1) Install, calibrate, and maintain a gas flow rate measuring device that records the flow to the treatment system at least every 15 minutes; and

(2) Secure the bypass line valve in the closed position with a car-seal or a lock-and-key type configuration. A visual inspection of the seal or closure mechanism must be performed at least once every month to ensure that the valve is maintained in the closed position and that the gas flow is not diverted through the bypass line.

§ 60.38f Reporting guidelines.

For approval, a State plan must include the reporting provisions listed in this section, as applicable, except as provided under §§ 60.24 and 60.38f(d)(2).

(a) *Design capacity report.* For existing MSW landfills subject to this subpart, the initial design capacity report must be submitted no later than 90 days after the effective date of EPA approval of the State's plan under section 111(d) of the Clean Air Act. The initial design capacity report must contain the following information:

(1) A map or plot of the landfill, providing the size and location of the landfill, and identifying all areas where solid waste may be landfilled according to the permit issued by the state, local, or tribal agency responsible for regulating the landfill.

(2) The maximum design capacity of the landfill. Where the maximum design capacity is specified in the permit issued by the state, local, or tribal agency responsible for regulating the landfill, a copy of the permit specifying the maximum design capacity may be submitted as part of the report. If the maximum design capacity of the landfill is not specified in the permit, the maximum design capacity must be calculated using good engineering practices. The calculations must be provided, along with the relevant parameters as part of the report. The landfill may calculate design capacity in either megagrams or cubic meters for comparison with the exemption values. If the owner or operator chooses to convert the design capacity from volume to mass or from mass to volume to demonstrate its design capacity is less than 2.5 million megagrams or 2.5 million cubic meters, the calculation must include a site-specific density, which must be recalculated annually. Any density conversions must be documented and submitted with the design capacity report. The state, local, or tribal agency or the Administrator may request other reasonable information as may be necessary to verify the maximum design capacity of the landfill.

(b) *Amended design capacity report.* An amended design capacity report must be submitted providing notification of an increase in the design capacity of the landfill, within 90 days of an increase in the maximum design capacity of the landfill to or above 2.5 million megagrams and 2.5 million cubic meters. This increase in design capacity may result from an increase in the permitted volume of the landfill or an increase in the density as documented in the annual recalculation required in § 60.39f(f).

(c) *NMOC emission rate report.* For existing MSW landfills covered by this subpart with a design capacity equal to or greater than 2.5 million megagrams and 2.5 million cubic meters, the NMOC emission rate report must be submitted following the procedure specified in paragraph (j) of this section no later than 90 days after the effective date of EPA approval of the State's plan under section 111(d) of the Clean Air Act. The NMOC emission rate report must be submitted annually following the procedure specified in paragraph (j) of this section, except as provided for in paragraph (c)(3) of this section. The Administrator may request such

additional information as may be necessary to verify the reported NMOC emission rate.

(1) The NMOC emission rate report must contain an annual or 5-year estimate of the NMOC emission rate calculated using the formula and procedures provided in § 60.35f(a).

(2) The NMOC emission rate report must include all the data, calculations, sample reports and measurements used to estimate the annual or 5-year emissions.

(3) If the estimated NMOC emission rate as reported in the annual report to the Administrator is less than 34 megagrams per year in each of the next 5 consecutive years, the owner or operator may elect to submit, following the procedure specified in paragraph (j) of this section, an estimate of the NMOC emission rate for the next 5-year period in lieu of the annual report. This estimate must include the current amount of solid waste-in-place and the estimated waste acceptance rate for each year of the 5 years for which an NMOC emission rate is estimated. All data and calculations upon which this estimate is based must be provided to the Administrator. This estimate must be revised at least once every 5 years. If the actual waste acceptance rate exceeds the estimated waste acceptance rate in any year reported in the 5-year estimate, a revised 5-year estimate must be submitted to the Administrator. The revised estimate must cover the 5-year period beginning with the year in which the actual waste acceptance rate exceeded the estimated waste acceptance rate.

(4) Each owner or operator subject to the requirements of this subpart is exempted from the requirements to submit an NMOC emission rate report, after installing a collection and control system that complies with § 60.33f(b) and (c), during such time as the collection and control system is in operation and in compliance with §§ 60.34f and 60.36f.

(5) Each owner or operator of an MSW landfill having a design capacity equal to or greater than 2.5 million megagrams and 2.5 million cubic meters must submit a collection and control system design plan to the Administrator within 1 year of the first NMOC emission rate report in which the NMOC emission rate equals or exceeds 34 megagrams per year, except as follows:

(i) If the owner or operator elects to recalculate the NMOC emission rate after Tier 2 NMOC sampling and analysis as provided in § 60.35f(a)(3) and the resulting rate is less than 34 megagrams per year, annual periodic reporting must be resumed, using the Tier 2 determined site-specific NMOC concentration, until the calculated emission rate is equal to or greater than 34 megagrams per year or the landfill is closed. The revised NMOC emission rate report, with the recalculated emission rate based on NMOC sampling and analysis, must be submitted, following the procedure specified in paragraph (j) of this section, within 180 days of the first calculated exceedance of 34 megagrams per year.

(ii) If the owner or operator elects to recalculate the NMOC emission rate after determining a site-specific methane generation rate constant k, as provided in Tier 3 in § 60.35f(a)(4), and the resulting NMOC emission rate is less than 34 megagrams per year, annual periodic reporting must be resumed. The resulting site-specific methane generation rate constant k must be used in the emission rate calculation until such time as the emissions rate calculation results in an exceedance. The revised NMOC emission rate report based on the provisions of § 60.35f(a)(4) and the resulting site-specific methane generation rate constant k must be submitted, following the procedure specified in paragraph (j) of this section, to the Administrator within 1 year of the first calculated NMOC emission rate equaling or exceeding 34 megagrams per year.

(iii) If the owner or operator elects to demonstrate that site-specific surface methane emissions are below 500 parts per million methane, then the owner or operator must submit annually a Tier 4 surface emissions report as specified in this paragraph following the procedure specified in paragraph (j) of this section. If the Tier 4 surface emissions report shows no surface emissions readings of 500 parts per million methane or greater for four consecutive quarters, then the landfill may continue Tier 4 monitoring at a reduced semi-annual frequency or return to Tier 1, 2, or 3. An owner or operator may elect to recalculate NMOC using Tier 1, 2, or 3 only if it has four consecutive quarters with no surface emissions monitoring readings of 500 parts per million or greater. The NMOC emission rate report must be submitted annually, following the procedure specified in paragraph (j) of this section, except as provided for in paragraph (c)(3) of this section. The Administrator may request such additional information as may be necessary to verify the reported instantaneous surface emission readings. The Tier 4 surface emissions report must clearly identify the location, date, and reading (in parts per million) of any value 500 parts per million methane or greater, other than non-repeatable, momentary readings. For location, you must determine the latitude and longitude coordinates using an instrument with an accuracy of at least 3 meters. Your coordinates must be in decimal degrees with at least five decimal places.

(iv) If the landfill is in the closed landfill subcategory, the owner or operator must submit a collection and control system design plan to the Administrator within 1 year of the first NMOC emission rate report in which the NMOC emission rate equals or exceeds 50 megagrams per year, except as follows:

(A) If the owner or operator elects to recalculate the NMOC emission rate after Tier 2 NMOC sampling and analysis as provided in § 60.35f(a)(3) and the resulting rate is less than 50 megagrams per year, annual periodic reporting must be resumed, using the Tier 2 determined site-specific NMOC concentration, until the calculated emission rate is equal to or greater than 50 megagrams per year or the landfill is closed. The revised NMOC emission rate report, with the recalculated emission rate based on NMOC sampling and analysis, must be submitted, following the procedure specified in paragraph (j) of this section, within 180 days of the first calculated exceedance of 50 megagrams per year.

(B) If the owner or operator elects to recalculate the NMOC emission rate after determining a site-specific methane generation rate constant k, as provided in Tier 3 in § 60.35f(a)(4), and the resulting NMOC emission rate is less than 50 megagrams per year, annual periodic reporting must be resumed. The resulting site-specific methane generation rate constant k must be used in the emission rate calculation until such time as the emissions rate calculation results in an exceedance. The revised NMOC emission rate report based on the provisions of § 60.35f(a)(4) and the resulting site-specific methane generation rate constant k must be submitted, following the procedure specified in paragraph (j) of this section, to the Administrator within 1 year of the first calculated NMOC emission rate equaling or exceeding 50 megagrams per year.

(C) The landfill owner or operator elects to demonstrate surface emissions are low, consistent with the provisions in § 60.38(c)(5)(iii).

(D) The landfill has already submitted a gas collection and control system design plan consistent with the provisions of subpart WWW of this part; 40 CFR part 62, subpart GGG; or a state plan implementing subpart Cc of this part.

(d) *Collection and control system design plan.* The State plan must include a process for state review and approval of the site-specific design plan for each gas collection and control system. The collection and control system design plan must meet the following requirements:

(1) The collection and control system as described in the design plan must meet the design requirements in § 60.33f(b) and (c).

(2) The collection and control system design plan must include any alternatives to the operational standards, test methods, procedures, compliance measures, monitoring, recordkeeping, or reporting provisions of §§ 60.34f through 60.39f proposed by the owner or operator.

(3) The collection and control system design plan must either conform to specifications for active collection systems in § 60.40f or include a demonstration to the Administrator's satisfaction of the sufficiency of the alternative provisions to § 60.40f.

(4) If the owner or operator chooses to demonstrate compliance with the emission control requirements of this subpart using a treatment system as defined in this subpart, then the owner or operator must prepare a site-specific treatment system monitoring plan as specified in § 60.39f(b)(5)(ii).

(5) The Administrator must review the information submitted under paragraphs (d)(1) through (4) of this section and either approve it, disapprove it, or request that additional information be submitted. Because of the many site-specific factors involved with landfill gas system design, alternative systems may be necessary. A wide variety of system designs are possible, such as vertical wells, combination horizontal and vertical collection systems, or horizontal trenches only, leachate collection components, and passive systems.

(e) *Revised design plan.* The owner or operator who has already been required to submit a design plan under paragraph (d) of this section, or under subpart WWW of this part; 40 CFR part 62, subpart GGG; or a state plan implementing subpart Cc of this part, must submit a revised design plan to the Administrator for approval as follows:

(1) Within 90 days of expanding operations to an area not covered by the previously approved design plan.

(2) Prior to installing or expanding the gas collection system in a way that is not consistent with the design plan that was submitted to the Administrator according to paragraph (d) of this section.

(f) *Closure report.* Each owner or operator of a controlled landfill must submit a closure report to the Administrator within 30 days of ceasing waste acceptance. The Administrator may request additional information as may be necessary to verify that permanent closure has taken place in accordance with the requirements of 40 CFR 258.60. If a closure report has been submitted to the Administrator, no additional wastes may be placed into the landfill without filing a notification of modification as described under § 60.7(a)(4).

(g) *Equipment removal report.* Each owner or operator of a controlled landfill must submit an equipment removal report to the Administrator 30 days prior to removal or cessation of operation of the control equipment.

(1) The equipment removal report must contain the following items:

(i) A copy of the closure report submitted in accordance with paragraph (f) of this section; and

(ii) A copy of the initial performance test report demonstrating that the 15-year minimum control period has expired, unless the report of the results of the performance test has been submitted to the EPA via the EPA's CDX, or information that demonstrates that the GCCS will be unable to operate for 15 years due to declining gas flows. In the equipment removal report, the process unit(s) tested, the pollutant(s) tested, and the date that such performance test was conducted may be submitted in lieu of the performance test report if the report has been previously submitted to the EPA's CDX; and

(iii) Dated records of surface emissions monitoring data of the landfill or closed area that demonstrates that there are no surface emissions of 500 parts per million or greater for four consecutive quarters, unless the reports have been submitted to the EPA via the EPA's CDX. If the surface emissions monitoring reports have been previously submitted to the EPA's CDX, a statement that the reports have been submitted electronically and the dates that the reports were submitted to the EPA's CDX may be submitted in the equipment removal report in lieu of the surface emissions monitoring reports; or

(iv) Dated copies of three successive NMOC emission rate reports demonstrating that the landfill is no longer producing 34 megagrams or greater of NMOC per year; or

(v) For the closed landfill subcategory, dated copies of three successive NMOC emission rate reports demonstrating that the landfill is no longer producing 50 megagrams or greater of NMOC per year.

(2) The Administrator may request such additional information as may be necessary to verify that all of the conditions for removal in § 60.33f(f) have been met.

(h) *Annual report.* The owner or operator of a landfill seeking to comply with § 60.33f(e)(2) using an active collection system designed in accordance with § 60.33f(b) must submit to the Administrator, following the procedures specified in paragraph (j) of this section, an annual report of the recorded information in paragraphs (h)(1) through (6) of this section. The initial annual report must be submitted within 180 days of installation and startup of the collection and control system. The initial annual report must include the following information pertaining to the initial performance test report required under § 60.8: The process unit(s) tested, the pollutant(s) tested, and the date that such performance test was conducted. The initial performance test report must be submitted, following the procedure specified in § 60.8(j), no later than the date that the initial annual report is submitted. For enclosed combustion devices, flares, and treatment systems reportable exceedances are defined under § 60.39f(c)(1).

(1) Value and length of time for exceedance of applicable parameters monitored under § 60.37f(a)(1), (b), (c), (d), and (g).

(2) Description and duration of all periods when the gas stream is diverted from the control device or treatment system through a bypass line or the indication of bypass flow as specified under § 60.37f.

(3) Description and duration of all periods when the control device or treatment system was not operating and length of time the control device or treatment system was not operating.

(4) All periods when the collection system was not operating.

(5) The location of each exceedance of the 500 parts per million methane concentration as provided in § 60.34f(d) and the concentration recorded at each location for which an exceedance was recorded in the previous month. For location, you must determine the latitude and longitude coordinates using an instrument with an accuracy of at least 3 meters. Your coordinates must be in decimal degrees with at least five decimal places.

(6) The date of installation and the location of each well or collection system expansion added pursuant to § 60.36f(a)(3), (b), and (c)(4).

(i) *Initial performance test report.* Each owner or operator seeking to comply with § 60.33f(c) must include

the following information with the initial performance test report required under § 60.8:

(1) A diagram of the collection system showing collection system positioning including all wells, horizontal collectors, surface collectors, or other gas extraction devices, including the locations of any areas excluded from collection and the proposed sites for the future collection system expansion;

(2) The data upon which the sufficient density of wells, horizontal collectors, surface collectors, or other gas extraction devices and the gas mover equipment sizing are based;

(3) The documentation of the presence of asbestos or nondegradable material for each area from which collection wells have been excluded based on the presence of asbestos or nondegradable material;

(4) The sum of the gas generation flow rates for all areas from which collection wells have been excluded based on nonproductivity and the calculations of gas generation flow rate for each excluded area;

(5) The provisions for increasing gas mover equipment capacity with increased gas generation flow rate, if the present gas mover equipment is inadequate to move the maximum flow rate expected over the life of the landfill; and

(6) The provisions for the control of offsite migration.

(j) *Electronic reporting.* The owner or operator must submit the results of each performance test according to the following procedures:

(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 § 60.4.

§ 60.39f Recordkeeping guidelines.

For approval, a State plan must include the recordkeeping provisions in this section.

(a) Except as provided in § 60.38f(d)(2), each owner or operator of an MSW landfill subject to the provisions of § 60.33f(e) must keep for at least 5 years up-to-date, readily accessible, onsite records of the design capacity report that triggered § 60.33f(e), the current amount of solid waste in-place, and the year-by-year waste acceptance rate. Offsite records may be maintained if they are retrievable within 4 hours. Either paper copy or electronic formats are acceptable.

(b) Except as provided in § 60.38f(d)(2), each owner or operator of a controlled landfill must keep up-to-date, readily accessible records for the life of the control system equipment of the data listed in paragraphs (b)(1) through (b)(5) of this section as measured during the initial performance test or compliance determination. Records of subsequent tests or monitoring must be maintained for a minimum of 5 years. Records of the control device vendor specifications must be maintained until removal.

(1) Where an owner or operator subject to the provisions of this subpart seeks to demonstrate compliance with § 60.33f(b):

(i) The maximum expected gas generation flow rate as calculated in § 60.36f(a)(1). The owner or operator may use another method to determine the maximum gas generation flow rate, if the method has been approved by the Administrator.

(ii) The density of wells, horizontal collectors, surface collectors, or other gas extraction devices determined using the procedures specified in § 60.40f(a)(1).

(2) Where an owner or operator subject to the provisions of this subpart seeks to demonstrate compliance with § 60.33f(c) through use of an enclosed combustion device other than a boiler or process heater with a design heat input capacity equal to or greater than 44 megawatts:

(i) The average temperature measured at least every 15 minutes and averaged over the same time period of the performance test.

(ii) The percent reduction of NMOC determined as specified in § 60.33f(c)(2) achieved by the control device.

(3) Where an owner or operator subject to the provisions of this subpart seeks to demonstrate compliance with § 60.33f(c)(2)(i) through use of a boiler or process heater of any size: a description of the location at which the collected gas vent stream is introduced into the boiler or process heater over the same time period of the performance testing.

(4) Where an owner or operator subject to the provisions of this subpart seeks to demonstrate compliance with § 60.33f(c)(1) through use of a non-enclosed flare, the flare type (*i.e.,* steam-assisted, air-assisted, or non-assisted), all visible emission readings, heat content determination, flow rate or bypass flow rate measurements, and exit velocity determinations made during the performance test as specified in § 60.18; and continuous records of the flare pilot flame or flare flame monitoring and records of all periods of operations during which the pilot flame or the flare flame is absent.

(5) Where an owner or operator subject to the provisions of this subpart seeks to demonstrate compliance with § 60.33f(c)(3) through use of a landfill gas treatment system:

(i) Bypass records. Records of the flow of landfill gas to, and bypass of, the treatment system.

(ii) Site-specific treatment monitoring plan, to include:

(A) Records of filtration, de-watering, and compression parameters that ensure the treatment system is operating properly for the intended end use of the treated landfill gas.

(B) Monitoring methods, frequencies, and operating ranges for each monitored operating parameter based on manufacturer's recommendations or engineering analysis for the intended end use of the treated landfill gas.

(C) Documentation of the monitoring methods and ranges, along with justification for their use.

(D) Identify who is responsible (by job title) for data collection.

(E) Processes and methods used to collect the necessary data.

(F) Description of the procedures and methods that are used for quality assurance, maintenance, and repair of all continuous monitoring systems.

(c) Except as provided in § 60.38f(d)(2), each owner or operator of a controlled landfill subject to the provisions of this subpart must keep for 5 years up-to-date, readily accessible continuous records of the equipment operating parameters specified to be monitored in § 60.37f as well as up-to-date, readily accessible records for periods of operation during which the parameter boundaries established during the most recent performance test are exceeded.

(1) The following constitute exceedances that must be recorded and reported under § 60.38f:

(i) For enclosed combustors except for boilers and process heaters with design heat input capacity of 44 megawatts (150 million British thermal unit per hour) or greater, all 3-hour periods of operation during which the average temperature was more than 28 °C below the average combustion temperature during the most recent performance test at which compliance with § 60.33f(c) was determined.

(ii) For boilers or process heaters, whenever there is a change in the location at which the vent stream is introduced into the flame zone as required under paragraph (b)(3) of this section.

(2) Each owner or operator subject to the provisions of this subpart must keep up-to-date, readily accessible continuous records of the indication of flow to the control system and the indication of bypass flow or records of monthly inspections of car-seals or lock-and-key configurations used to seal bypass lines, specified under § 60.37f.

(3) Each owner or operator subject to the provisions of this subpart who uses a boiler or process heater with a design heat input capacity of 44 megawatts or greater to comply with § 60.33f(c) must keep an up-to-date, readily accessible record of all periods of operation of the boiler or process heater. (Examples of such records could include records of steam use, fuel use, or monitoring data collected pursuant to other state, local, tribal, or federal regulatory requirements.)

(4) Each owner or operator seeking to comply with the provisions of this subpart by use of a non-enclosed flare must keep up-to-date, readily accessible continuous records of the flame or flare pilot flame monitoring specified under § 60.37f(c), and up-to-date, readily accessible records of all periods of operation in which the flame or flare pilot flame is absent.

(5) Each owner or operator of a landfill seeking to comply with § 60.33f(e) using an active collection system designed in accordance with § 60.33f(b) must keep records of estimates of NMOC emissions for periods when the collection system or control device is not operating.

(d) Except as provided in § 60.38f(d)(2), each owner or operator subject to the provisions of this subpart must keep for the life of the collection system an up-to-date, readily accessible plot map showing each existing and planned collector in the system and providing a unique identification location label on each collector that matches the labeling on the plot map.

(1) Each owner or operator subject to the provisions of this subpart must keep up-to-date, readily accessible records of the installation date and location of all newly installed collectors as specified under § 60.36f(b).

(2) Each owner or operator subject to the provisions of this subpart must keep readily accessible documentation of the nature, date of deposition, amount, and location of asbestos-containing or nondegradable waste excluded from collection as provided in § 60.40f(a)(3)(i) as well as any nonproductive areas excluded from collection as provided in § 60.40f(a)(3)(ii).

(e) Except as provided in § 60.38f(d)(2), each owner or operator subject to the provisions of this subpart must keep for at least 5 years up-to-date, readily accessible records of all collection and control system exceedances of the operational standards in § 60.34f, the reading in the subsequent month whether or not the second reading is an exceedance, and the location of each exceedance.

(f) Landfill owners or operators who convert design capacity from volume to mass or mass to volume to demonstrate that landfill design capacity is less than 2.5 million megagrams or 2.5 million cubic meters, as provided in the definition of ''design capacity'', must keep readily accessible, onsite records of the annual recalculation of site-specific density, design capacity, and the supporting documentation. Offsite records may be maintained if they are retrievable within 4 hours. Either paper copy or electronic formats are acceptable.

(g) Landfill owners or operators seeking to demonstrate that site-specific surface methane emissions are below 500 parts per million by conducting surface emission monitoring under the Tier 4 procedures specified in § 60.35f(a)(6) must keep for at least 5 years up-to-date, readily accessible records of all surface emissions monitoring and information related to monitoring instrument calibrations conducted according to sections 8.1.2 and 10 of Method 21 of Appendix A of this part including all of the following items:

(1) Calibration records.

(i) Date of calibration and initials of operator performing the calibration.

(ii) Calibration gas cylinder identification, certification date, and certified concentration.

(iii) Instrument scale(s) used.

(iv) A description of any corrective action taken if the meter readout could not be adjusted to correspond to the calibration gas value.

(v) If an owner or operator makes their own calibration gas, a description of the procedure used.

(2) Timestamp of each surface scan reading, to the nearest minute.

(3) Location of each surface scan reading. The owner or operator must determine the coordinates using an instrument with an accuracy of at least 3 meters. Coordinates must be in decimal degrees with at least five decimal places.

(4) Monitored methane concentration (parts per million) of each reading.

(5) Background methane concentration (parts per million) after each instrument calibration test.

(6) Adjusted methane concentration using most recent calibration (parts per million).

(7) For readings taken at each surface penetration, the unique identification location label matching the label specified in § 60.39f(d).

(h) Except as provided in § 60.38f(d)(2), each owner or operator subject to the provisions of this subpart must keep for at least 5 years up-to-date, readily accessible records of all collection and control system monitoring data for parameters measured in § 60.37f(a)(2) and (3).

(i) Any records required to be maintained by this subpart that are submitted electronically via the EPA's CDX may be maintained in electronic format.

§ 60.40f Specifications for active collection systems.

For approval, a State plan must include the specifications for active collection systems in this section.

(a) Each owner or operator seeking to comply with § 60.33f(b) must site active collection wells, horizontal collectors, surface collectors, or other extraction devices at a sufficient density throughout all gas producing areas using the following procedures unless alternative procedures have been approved by the Administrator.

(1) The collection devices within the interior must be certified to achieve comprehensive control of surface gas emissions by a professional engineer. The following issues must be addressed in the design: Depths of refuse, refuse gas generation rates and flow characteristics, cover properties, gas system expandability, leachate and condensate management, accessibility, compatibility with filling operations, integration with closure end use, air intrusion control, corrosion resistance, fill settlement, resistance to the refuse decomposition heat, and ability to isolate individual components or sections for repair or troubleshooting without shutting down entire collection system.

(2) The sufficient density of gas collection devices determined in paragraph (a)(1) of this section must address landfill gas migration issues and augmentation of the collection system through the use of active or passive systems at the landfill perimeter or exterior.

(3) The placement of gas collection devices determined in paragraph (a)(1) of this section must control all gas producing areas, except as provided by paragraphs (a)(3)(i) and (ii) of this section.

(i) Any segregated area of asbestos or nondegradable material may be excluded from collection if documented as provided under § 60.39f(d). The documentation must provide the nature, date of deposition, location and amount of asbestos or nondegradable material deposited in the area, and must be provided to the Administrator upon request.

(ii) Any nonproductive area of the landfill may be excluded from control, provided that the total of all excluded areas can be shown to contribute less than 1 percent of the total amount of NMOC emissions from the landfill. The amount, location, and age of the material must be documented and provided to the Administrator upon request. A separate NMOC emissions estimate must be made for each section proposed for exclusion, and the sum of all such sections must be compared to the NMOC emissions estimate for the entire landfill.

(A) The NMOC emissions from each section proposed for exclusion must be computed using the following equation:

$$Q_i = 2kL_oM_i(e^{-kt_i})(C_{NMOC})(3.6\ x\ 10^{-9})$$

Where:

Q_i = NMOC emission rate from the ith section, megagrams per year.

k = Methane generation rate constant, year − 1.

L_o = Methane generation potential, cubic meters per megagram solid waste.

M_i = Mass of the degradable solid waste in the ith section, megagram.

t_i = Age of the solid waste in the ith section, years.

C_{NMOC} = Concentration of NMOC, parts per million by volume.

3.6×10^{-9} = Conversion factor.

(B) If the owner or operator is proposing to exclude, or cease gas collection and control from, nonproductive physically separated (*e.g.,* separately lined) closed areas that already have gas collection systems, NMOC emissions from each physically separated closed area must be computed using either the equation in § 60.35f or the equation in paragraph (a)(3)(ii)(A) of this section.

(iii) The values for k and CNMOC determined in field testing must be used if field testing has been performed in determining the NMOC emission rate or the radii of influence (the distance from the well center to a point in the landfill where the pressure gradient applied by the blower or compressor approaches zero). If field testing has not been performed, the default values for k, Lo, and CNMOC provided in § 60.35f or the alternative values from § 60.35f must be used. The mass of nondegradable solid waste contained within the given section may be subtracted from the total mass of the section when estimating emissions provided the nature, location, age, and amount of the nondegradable material is documented as provided in paragraph (a)(3)(i) of this section.

(b) Each owner or operator seeking to comply with § 60.33f(b) must construct the gas collection devices using the following equipment or procedures:

(1) The landfill gas extraction components must be constructed of polyvinyl chloride (PVC), high density polyethylene (HDPE) pipe, fiberglass, stainless steel, or other nonporous corrosion resistant material of suitable dimensions to: Convey projected amounts of gases; withstand installation, static, and settlement forces; and withstand planned overburden or traffic loads. The collection system must extend as necessary to comply with emission and migration standards. Collection devices such as wells and horizontal collectors must be perforated to allow gas entry without head loss sufficient to impair performance across the intended extent of control. Perforations must be situated with regard to the need to prevent excessive air infiltration.

(2) Vertical wells must be placed so as not to endanger underlying liners and must address the occurrence of water within the landfill. Holes and trenches constructed for piped wells and horizontal collectors must be of sufficient cross-section so as to allow for their proper construction and completion including, for example, centering of pipes and placement of gravel backfill. Collection devices must be designed so as not to allow indirect short circuiting of air into the cover or refuse into the collection system or gas into the air. Any gravel used around pipe perforations should be of a dimension so as not to penetrate or block perforations.

(3) Collection devices may be connected to the collection header pipes below or above the landfill surface. The connector assembly must include a positive closing throttle valve, any necessary seals and couplings, access couplings and at least one sampling port. The collection devices must be constructed of PVC, HDPE, fiberglass, stainless steel, or other nonporous material of suitable thickness.

(c) Each owner or operator seeking to comply with § 60.33f(c) must convey the landfill gas to a control system in compliance with § 60.33f(c) through the collection header pipe(s). The gas mover equipment must be sized to handle the maximum gas generation flow rate expected over the intended use period of the gas moving equipment using the following procedures:

(1) For existing collection systems, the flow data must be used to project the maximum flow rate. If no flow data exist, the procedures in paragraph (c)(2) of this section must be used.

(2) For new collection systems, the maximum flow rate must be in accordance with § 60.36f(a)(1).

§ 60.41f Definitions.

Terms used but not defined in this subpart have the meaning given them in the Clean Air Act and in subparts A and B of this part.

Active collection system means a gas collection system that uses gas mover equipment.

Active landfill means a landfill in which solid waste is being placed or a

landfill that is planned to accept waste in the future.

Administrator means the Administrator of the U.S. Environmental Protection Agency or his/her authorized representative or the Administrator of a State Air Pollution Control Agency.

Closed landfill means a landfill in which solid waste is no longer being placed, and in which no additional solid wastes will be placed without first filing a notification of modification as prescribed under § 60.7(a)(4). Once a notification of modification has been filed, and additional solid waste is placed in the landfill, the landfill is no longer closed.

Closed landfill subcategory means a closed landfill that has submitted a closure report as specified in § 60.38f(f) on or before August 27, 2015.

Closure means that point in time when a landfill becomes a closed landfill.

Commercial solid waste means all types of solid waste generated by stores, offices, restaurants, warehouses, and other nonmanufacturing activities, excluding residential and industrial wastes.

Controlled landfill means any landfill at which collection and control systems are required under this subpart as a result of the NMOC emission rate. The landfill is considered controlled at the time a collection and control system design plan is submitted in compliance with § 60.33f(e)(2).

Design capacity means the maximum amount of solid waste a landfill can accept, as indicated in terms of volume or mass in the most recent permit issued by the state, local, or tribal agency responsible for regulating the landfill, plus any in-place waste not accounted for in the most recent permit.

Disposal facility means all contiguous land and structures, other appurtenances, and improvements on the land used for the disposal of solid waste.

Emission rate cutoff means the threshold annual emission rate to which a landfill compares its estimated emission rate to determine if control under the regulation is required.

Enclosed combustor means an enclosed firebox which maintains a relatively constant limited peak temperature generally using a limited supply of combustion air. An enclosed flare is considered an enclosed combustor.

Flare means an open combustor without enclosure or shroud.

Gas mover equipment means the equipment (*i.e.,* fan, blower, compressor) used to transport landfill gas through the header system.

Household waste means any solid waste (including garbage, trash, and sanitary waste in septic tanks) derived from households (including, but not limited to, single and multiple residences, hotels and motels, bunkhouses, ranger stations, crew quarters, campgrounds, picnic grounds, and day-use recreation areas). Household waste does not include fully segregated yard waste. Segregated yard waste means vegetative matter resulting exclusively from the cutting of grass, the pruning and/or removal of bushes, shrubs, and trees, the weeding of gardens, and other landscaping maintenance activities. Household waste does not include construction, renovation, or demolition wastes.

Industrial solid waste means solid waste generated by manufacturing or industrial processes that is not a hazardous waste regulated under Subtitle C of the Resource Conservation and Recovery Act, parts 264 and 265 of this chapter. Such waste may include, but is not limited to, waste resulting from the following manufacturing processes: Electric power generation; fertilizer/agricultural chemicals; food and related products/by-products; inorganic chemicals; iron and steel manufacturing; leather and leather products; nonferrous metals manufacturing/foundries; organic chemicals; plastics and resins manufacturing; pulp and paper industry; rubber and miscellaneous plastic products; stone, glass, clay, and concrete products; textile manufacturing; transportation equipment; and water treatment. This term does not include mining waste or oil and gas waste.

Interior well means any well or similar collection component located inside the perimeter of the landfill waste. A perimeter well located outside the landfilled waste is not an interior well.

Landfill means an area of land or an excavation in which wastes are placed for permanent disposal, and that is not a land application unit, surface impoundment, injection well, or waste pile as those terms are defined under § 257.2 of this title.

Lateral expansion means a horizontal expansion of the waste boundaries of an existing MSW landfill. A lateral expansion is not a modification unless it results in an increase in the design capacity of the landfill.

Modification means an increase in the permitted volume design capacity of the landfill by either lateral or vertical expansion based on its permitted design capacity as of July 17, 2014. Modification does not occur until the owner or operator commences construction on the lateral or vertical expansion.

Municipal solid waste landfill or *MSW landfill* means an entire disposal facility in a contiguous geographical space where household waste is placed in or on land. An MSW landfill may also receive other types of RCRA Subtitle D wastes (§ 257.2 of this title) such as commercial solid waste, nonhazardous sludge, conditionally exempt small quantity generator waste, and industrial solid waste. Portions of an MSW landfill may be separated by access roads. An MSW landfill may be publicly or privately owned. An MSW landfill may be a new MSW landfill, an existing MSW landfill, or a lateral expansion.

Municipal solid waste landfill emissions or *MSW landfill emissions* means gas generated by the decomposition of organic waste deposited in an MSW landfill or derived from the evolution of organic compounds in the waste.

NMOC means nonmethane organic compounds, as measured according to the provisions of § 60.35f.

Nondegradable waste means any waste that does not decompose through chemical breakdown or microbiological activity. Examples are, but are not limited to, concrete, municipal waste combustor ash, and metals.

Passive collection system means a gas collection system that solely uses positive pressure within the landfill to move the gas rather than using gas mover equipment.

Protectorate means American Samoa, the Commonwealth of Puerto Rico, the District of Columbia, Guam, the Northern Mariana Islands, and the Virgin Islands.

Sludge means the term sludge as defined in 40 CFR 258.2.

Solid waste means the term solid waste as defined in 40 CFR 258.2.

State means any of the 50 United States and the protectorates of the United States.

State plan means a plan submitted pursuant to section 111(d) of the Clean Air Act and subpart B of this part that implements and enforces subpart Cf of this part.

Sufficient density means any number, spacing, and combination of collection system components, including vertical wells, horizontal collectors, and surface collectors, necessary to maintain emission and migration control as determined by measures of performance set forth in this part.

Sufficient extraction rate means a rate sufficient to maintain a negative pressure at all wellheads in the collection system without causing air infiltration, including any wellheads connected to the system as a result of expansion or excess surface emissions, for the life of the blower.

Treated landfill gas means landfill gas processed in a treatment system as defined in this subpart.

Treatment system means a system that filters, de-waters, and compresses landfill gas for sale or beneficial use.

Untreated landfill gas means any landfill gas that is not treated landfill gas.

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BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[EPA–HQ–OAR–2003–0215; FRL–9928–96–OAR]

RIN 2060–AM08

Standards of Performance for Municipal Solid Waste Landfills

AGENCY: Environmental Protection Agency (EPA).

ACTION: Supplemental proposal.

SUMMARY: The Environmental Protection Agency (EPA) is issuing this supplemental proposal for the Standards of Performance for Municipal Solid Waste (MSW) Landfills to address the nonmethane organic compound (NMOC) emission rate threshold at which an affected MSW landfill must install controls. The EPA is in the process of reviewing the Standards of Performance for MSW Landfills based on changes in the landfills industry since the standards were promulgated in 1996 and issued a proposed rulemaking on July 17, 2014. The EPA's review of the Standards of Performance for MSW Landfills (also referred to as the New Source Performance Standards or NSPS for MSW Landfills) applies to landfills that commenced construction, reconstruction, or modification after July 17, 2014.

This document proposes to achieve additional reductions of landfill gas (LFG) and its components, including methane, through a lower emission threshold at which MSW landfills must install and operate a gas collection and control system (GCCS). This document supplements the proposed July 17, 2014, rulemaking by further lowering, from 40 megagrams per year (Mg/yr) to 34 Mg/yr, the proposed NMOC emissions threshold at which controls would be required. This change to the 2014 proposed threshold is based on additional data we have reviewed that indicate greater potential for reductions in methane emissions from these sources than we originally estimated that can be achieved at reasonable cost. Accordingly, the EPA is proposing to establish the NMOC emission rate threshold for installing a GCCS at 34 Mg/yr and is requesting comment specifically on whether this is appropriate. The EPA is also soliciting comment on the number of facilities that might ultimately become subject to proposed new subpart XXX. The EPA intends to consider the information received in response to this supplemental proposal prior to finalizing revised Standards of Performance for MSW Landfills. The EPA is seeking comment only on the two issues addressed by this supplemental proposal and the supplemental proposal does not otherwise reopen the comment period for the July 17, 2014, proposed rule.

DATES: *Comments.* Comments must be received on or before October 26, 2015. Under the Paperwork Reduction Act (PRA), comments on the information collection provisions are best assured of consideration if the Office of Management and Budget (OMB) receives a copy of your comments on or before September 28, 2015.

Public Hearing. If anyone contacts the EPA requesting a public hearing by September 1, 2015, the EPA will hold a public hearing on September 11, 2015 from 1:00 p.m. (Eastern Standard Time) to 5:00 p.m. (Eastern Standard Time) at the location in the **ADDRESSES** section. If no one contacts the EPA requesting a public hearing to be held concerning this proposed rule by September 1, 2015, a public hearing will not take place. Information regarding whether or not a hearing will be held will be posted on the rule's Web site located at *http://www.epa.gov/ttnatw01/landfill/landflpg.htm.* Please contact Ms. Aimee St. Clair at (919) 541–1063 or at *stclair.aimee@epa.gov* to register to speak at the hearing. The last day to pre-register to speak at the hearing will be September 8, 2015.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OAR–2003–0215, 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. 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 submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *http://www2.epa.gov/dockets/commenting-epa-dockets.*

Public Hearing. If a public hearing is held, it will be at the U.S. Environmental Protection Agency building located at 109 T.W. Alexander Drive, Research Triangle Park, NC 27711. Information regarding whether or not a hearing will be held will be posted on the rule's Web site located at *http://www.epa.gov/ttnatw01/landfill/landflpg.htm.*

Please see section I.C of the Supplementary Information for detailed information on the public hearing.

Docket: All documents in the docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, *e.g.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy at the EPA Docket Center (EPA/DC), EPA WJC West Building, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The Docket Center 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 Air Docket is (202) 566–1742.

FOR FURTHER INFORMATION CONTACT: For information concerning this supplemental proposal, contact Ms. Hillary Ward, Fuels and Incineration Group, Sector Policies and Programs Division, Office of Air Quality Planning and Standards (E143–05), Environmental Protection Agency, Research Triangle Park, NC 27711; telephone number: (919) 541–3154; fax

number: (919) 541–0246; email address: *ward.hillary@epa.gov.*

SUPPLEMENTARY INFORMATION:

Acronyms and Abbreviations. The following acronyms and abbreviations are used in this document.

CAA Clean Air Act
CBI Confidential business information
CFR Code of Federal Regulations
CO_2 Carbon dioxide
CO_2e Carbon dioxide equivalent
EPA Environmental Protection Agency
GCCS Gas collection and control system
GHG Greenhouse gas
GHGRP Greenhouse Gas Reporting Program
ICR Information collection request
LFG Landfill gas
m^3 Cubic meters
Mg Megagram
Mg/yr Megagram per year
MSW Municipal solid waste
$mtCO_2e$ Metric tons of carbon dioxide equivalent
NMOC Nonmethane organic compound
NSPS New source performance standards
OAQPS Office of Air Quality Planning and Standards
OMB Office of Management & Budget
RFA Regulatory Flexibility Act
RIA Regulatory impacts analysis
U.S. United States
VCS Voluntary consensus standard

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

I. Background and Purpose of This Regulatory Action
A. Background
B. Proposed NMOC Emission Rate Threshold
C. Public hearing
II. 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 (PRA)
C. Regulatory Flexibility Act (RFA)
D. Unfunded Mandates Reform Act (UMRA)
E. Executive Order 13132: Federalism
F. Executive Order 13175: Consultation and Coordination with Indian Tribal Governments
G. Executive Order 13045: Protection of Children from Environmental Health Risks and Safety Risks
H. Executive Order 13211: Actions that Significantly Affect Energy Supply, Distribution, or Use
I. National Technology Transfer and Advancement Act
J. Executive Order 12898: Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations

I. Background and Purpose of This Regulatory Action

The purpose of this regulatory action is to propose and take comment on a supplemental change to the proposed Standards of Performance for MSW Landfills resulting from the EPA's ongoing review of the standards under Clean Air Act (CAA) section 111. The EPA is also soliciting comments on the number of facilities that might ultimately become subject to proposed new 40 CFR part 60, subpart XXX.

A. Background

On July 17, 2014, the EPA proposed a new NSPS subpart (40 CFR part 60, subpart XXX) based on its ongoing review of the MSW Landfills NSPS (40 CFR part 60, subpart WWW) (79 FR 41796) (referred to as ''NSPS proposal'' in this document). The NSPS proposal is consistent with President Obama's Climate Action Plan and corresponding Methane Strategy. The June 2013 Climate Action Plan directed federal agencies to focus on ''assessing current emissions data, addressing data gaps, identifying technologies and best practices for reducing emissions, and identifying existing authorities and incentive-based opportunities to reduce methane emissions.'' Methane is a potent greenhouse gas (GHG) that has a warming potential that is 28–36 times greater than carbon dioxide (CO_2) and has an atmospheric life of about 12 years. Given methane's potency as a GHG and its atmospheric life, reducing methane emissions is one of the best ways to achieve near-term beneficial impact in mitigating global climate change. The March 2014 ''Climate Action Plan: Strategy to Reduce Methane Emissions'' (the Methane Strategy) directed the EPA to continue to pursue emission reductions through regulatory updates and to encourage LFG energy recovery through voluntary programs.

The proposed new subpart retained the same design capacity size thresholds of 2.5 million cubic meters (m^3) and 2.5 million Mg as 40 CFR part 60, subparts Cc and WWW, but lowered the NMOC emission rate at which an MSW landfill must install controls to 40 Mg/yr. Several additional options for revising the NMOC emission rate were also presented, including an NMOC emission rate of 34 Mg/yr. Since presenting these options, the EPA has updated its model that estimates the emission reductions and cost impacts of changes to the design capacity thresholds and/or the NMOC emission rate trigger based on public comments and new data. This supplemental proposal provides information about these updates for public review and comment.

B. Proposed NMOC Emission Rate Threshold

For the reasons presented below, the EPA is now proposing to establish the NMOC emissions threshold for requiring installation of a GCCS in proposed subpart XXX (of 40 CFR part 60) at 34 Mg/yr, rather than the 40 Mg/yr proposed on July 17, 2014, and is requesting specific comments on whether this is appropriate. The EPA is not proposing to revise the design capacity threshold of 2.5 million m^3 and 2.5 million Mg.

For the July 17, 2014, NSPS proposal, the EPA estimated the emission reductions and costs associated with 17 new ''greenfield'' MSW landfills that the EPA projected to commence construction, reconstruction, or modification between 2014 and 2018 and have a design capacity of 2.5 million m^3 and 2.5 million Mg. The basis of the projected number of new landfills and associated emission reductions are presented in the MSW Landfills NSPS Docket ID No. EPA–HQ–OAR–2003–0215 (see the docketed memorandum ''Methodology for Estimating Cost and Emission Impacts of MSW Landfills Regulations. 2014''). Multiple commenters on the MSW Landfills NSPS proposal stated that the EPA underestimated the cost impacts of the proposed NSPS because the EPA failed to consider the number of MSW landfills that are expected to become subject to the proposed NSPS through modification.

In response to these comments, the EPA consulted with its Regional Offices, as well as state and local authorities, to identify landfills expected to undergo a modification as defined in proposed 40 CFR part 60, subpart XXX within the next 5 years. Based on this information, the EPA estimated the number of existing landfills likely to modify after July 17, 2014, and thereby become subject to proposed subpart XXX. In addition, the EPA made several changes to its underlying dataset and methodology used to analyze the impacts of potential control options, as discussed in the docketed memoranda, ''Updated Methodology for Estimating Cost and Emission Impacts of MSW Landfills Regulations. 2015,'' and ''Updated Methodology for Estimating Testing and Monitoring Costs for the MSW Landfill Regulations. 2015.'' The EPA also updated the technical attributes of over 1,200 landfills based on new detailed data reported to 40 CFR part 98, subpart HH of the Greenhouse Gas Reporting Program (GHGRP). A detailed discussion of updates made to the landfill dataset is in the docketed

memorandum, ''Summary of Updated Landfill Dataset Used in the Cost and Emission Reduction Analysis of Landfills Regulations. 2015.''

As a result of the changes to the dataset, the number and characteristics of new landfills that the EPA projected to commence construction, reconstruction, or modification between 2014 and 2018 and modified landfills that are expected to become subject to proposed 40 CFR part 60, subpart XXX have changed.[1] Based on the revised dataset, the number of landfills estimated to be affected by proposed subpart XXX went from 17 new landfills to 140 new or modified landfills, assuming a design capacity of 2.5 million m^3 and 2.5 million Mg.

Using the revised dataset, the EPA re-ran the model using control options similar to the options presented in the proposed NSPS. The EPA's analysis showed that lowering the NMOC emission rate threshold to 34 Mg/yr NMOC would accelerate the schedule for installing a GCCS and also increase the number of landfills required to install controls, thereby achieving additional reductions in emissions of both NMOC and methane.

On July 17, 2014, the EPA proposed an NMOC threshold of 40 Mg/yr and discussed an alternative NMOC emission threshold of 34 Mg/yr in the NSPS proposal and in an Advanced Notice of Proposed Rulemaking (ANPRM) for the Emission Guidelines (for existing landfills). The EPA considered the information received in response to the ANPRM in evaluating whether additional changes beyond those in the proposed revisions for new sources are warranted (79 FR 41772). Commenters on the proposed NSPS for new landfills and the ANPRM for existing landfills expressed mixed reactions to a lower NMOC emission rate threshold. Several nongovernmental organizations and a local government entity supported a reduction in the NMOC emissions threshold. One state agency provided examples of existing landfills controlling emissions in its state with estimated NMOC emission rates as low as 8.1 Mg/yr.

In contrast, several commenters were concerned with the financial and technical implications of lowering the threshold, including whether landfills were financially prepared to install controls at an earlier time, or whether landfills would lose potential carbon credit revenue from voluntary projects. Another state agency expressed concerns that landfills in arid areas would have difficulty continuously operating a flare at landfills with lower quality gas that emit between 40 and 50 Mg/yr.

Table 1 of this document shows the emission reductions and costs for control options, when using a 7 percent discount rate, in year 2025 at new and modified landfills. At the baseline size and emissions thresholds (*i.e.,* 50 Mg/yr NMOC), 112 of the 140 new or modified landfills are expected to control emissions in 2025. At an emission threshold of 40 Mg/yr NMOC and a design capacity threshold of 2.5 million Mg and 2.5 million m^3, as proposed in the NSPS proposal, the incremental number of new (or modified) landfills estimated to require a GCCS in 2025 went from three to 11, for a total of 123 landfills with controls. An emission threshold level of 34 Mg/yr NMOC, which was presented as an option for consideration in the NSPS proposal, results in an estimated 15 additional new or modified landfills requiring controls in year 2025, for a total of 127 landfills with controls.

The incremental emission reductions for an NMOC emission rate of 40 Mg/yr would be 300 Mg/yr NMOC and 44,400 Mg/yr methane (1.1 million metric tons of CO_2 equivalent ($mtCO_2e$)) beyond the baseline. The incremental emission reductions for an NMOC emission rate of 34 Mg/yr NMOC would be 300 Mg/yr NMOC and 51,400 Mg/yr methane (1.3 million $mtCO_2e$) beyond the baseline. These incremental emission reductions represent a 2.4- and 2.8-percent reduction in emissions beyond the baseline. The cost effectiveness between an NMOC emission rate of 34 Mg/yr and 40 Mg/yr is comparable, but by lowering the NMOC emissions threshold to 34 Mg/yr, this action achieves additional reductions of 50 Mg/yr NMOC[2] and 7,000 Mg/yr methane (175,000 mt/yr CO_2e) in 2025. These pollutants are associated with substantial health effects, climate effects, and other welfare effects.

TABLE 1—EMISSION REDUCTIONS AND COSTS FOR CONTROL OPTIONS IN YEAR 2025 AT NEW AND MODIFIED LANDFILLS (2012$)

Option	Number of landfills affected	Number of landfills controlling in 2025	Number of landfills reporting but not controlling	Annual Net Cost (million $2012) [a]	Annual NMOC Reductions (Mg/yr)	Annual methane reductions (Mg/yr)	Annual CO_2e reductions (million mt/yr)	NMOC cost effectiveness ($/Mg)	Methane cost effectiveness ($/Mg)	CO_2e cost effectiveness ($/mt)
Baseline:										
Baseline (2.5 design capacity/50 Mg/yr NMOC)	140	112	28	61.4	11,640	1,834,000	45.9	5,270	33	1.3
Incremental values vs. the Baseline:										
Option (2.5 design capacity/40 Mg/yr NMOC)	0	11	−11	7.4	300	44,400	1.1	26,100	166	6.6
Option (2.5 design capacity/34 Mg/yr NMOC)	0	15	−15	8.5	300	51,400	1.3	26,100	166	6.6
Option (2.0 design capacity/34 Mg/yr NMOC)	7	19	−12	10.2	400	62,500	1.6	25,600	163	6.5

[a] Based on the current reported design capacity of landfills, independent of time horizon used in analysis shown in the four cost-effectiveness summary tables. For some modified landfills, landfills may report in early years under the Emission Guidelines and then also report under the NSPS after modification commenced (or year 2016, whatever is later).

The only categories of benefits monetized for this supplemental proposal are methane-related climate impacts and minor secondary CO_2-related climate effects. In particular, we estimated the global social benefits of methane emissions using estimates of the social cost of methane (SC–CH_4), a metric that estimates the monetary value of impacts associated with marginal changes in methane emissions in a given year.

A similar metric, the social cost of CO_2 (SC–CO_2), estimates the monetary value of impacts associated with

[1] Under CAA section 111(a) and proposed 40 CFR part 60, subpart XXX the term new landfills encompasses both greenfield facilities and facilities that meet proposed subpart XXX's definition of ''modification''. Because the characteristics of a greenfield site and an existing landfill that undergoes modification are different, the dataset distinguishes between the two types of facilities.

[2] The unrounded annual NMOC reductions in Table 1 of this preamble are 330 Mg/yr NMOC for option 2.5 million Mg design capacity threshold and 40 Mg/yr NMOC threshold; and 280 Mg/yr NMOC for option 2.5 million Mg design capacity/34 Mg/yr NMOC threshold. Thus, the difference between the NMOC reductions for these two options is 50 Mg/yr NMOC.

marginal changes in CO_2 emissions in a given year.[3] The SC–CO_2 estimates were developed over many years by an interagency working group, using the best science available, and with input from the public.

The SC–CH_4 estimates used in this analysis were developed by Marten et al. (2014) and are discussed in greater detail in section 4.2 of the Regulatory Impacts Analysis (RIA), which is in the MSW Landfills NSPS docket EPA–HQ–OAR–2003–0215. The four SC–CH_4 estimates are: $700, $1,500, $1,900, and $4,000 per metric ton of methane emissions in the year 2025 (2012$). The first three values are based on the average SC–CH_4 from the three integrated assessment models, at discount rates of 5, 3, and 2.5 percent, respectively. Estimates of the SC–CH_4 for several discount rates are included because the literature shows that the SC–CH_4 is sensitive to assumptions about the discount rate, and because no consensus exists on the appropriate rate to use in an intergenerational context (where costs and benefits are incurred by different generations). The fourth value is the 95th percentile of the SC–CH_4 across all three models at a 3 percent discount rate. It is included to represent higher-than-expected impacts from temperature change further out in the tails of the SC–CH_4 distribution.

The methodology used to calculate methane climate benefits is discussed in detail in Section 4.2 of the RIA. Applying the approach discussed in the RIA to the methane reductions estimated for this supplemental proposal, the 2025 methane benefits of this supplemental proposal vary by discount rate and range from $36 million (2012$) to $210 million (2012$); the mean SC–CH_4 at the 3 percent discount rate results in an estimate of $78 million (2012$) in 2025 for the proposed 34 Mg/yr emission threshold (see Table 2 of this preamble). Monetizing the minor secondary CO_2 emissions impacts with the SC–CO_2 estimates, also described in Section 4.2 of the RIA, yields disbenefits of $0.03 million (2012$) in 2025.

TABLE 2—ESTIMATED GLOBAL BENEFITS OF CH_4 REDUCTIONS IN 2025 [a]

[In millions, 2012$]

Methane reductions (million mt)	CO_2e Reductions (million mt)	Discount rate and statistic			
		5% (average)	3% (average)	2.5% (average)	3% (95th percentile)
0.051	1.3	$36	$78	$100	$210

[a] The SC–CH_4 values are dollar-year and emissions-year specific. SC–CH_4 values represent only a partial accounting of climate impacts. See Section 4.2 of the RIA for a complete discussion about the methodology.

Consistent with the Methane Strategy that was developed as part of the President's Climate Action Plan, the EPA considered control options to achieve additional reductions of methane and NMOC for new landfills. The Climate Action Plan directed the EPA and five other federal agencies to develop a comprehensive interagency strategy to reduce methane emissions. Specifically, the federal agencies were instructed to focus on ''assessing current emissions data, addressing data gaps, identifying technologies and best practices for reducing emissions and identifying existing authorities and incentive-based opportunities to reduce methane emissions.'' With respect to landfills, the Methane Strategy directs the agency to build upon progress to date through updates to the EPA's rules for reducing emissions from new, modified, and reconstructed landfills. Based on the Climate Action Plan and Methane Strategy, the revised analysis described above, and consideration of comments received on the proposed NSPS and ANPRM, the EPA is proposing to lower the NMOC emission rate threshold to 34 Mg/yr for new (new, modified, and reconstructed) sources subject to proposed 40 CFR part 60, subpart XXX. The EPA is not proposing changes to the design capacity thresholds.

The EPA believes a level of 34 Mg/yr NMOC is achievable for new and modified landfills. Greenfield and modified landfill owners or operators are expected to employ the latest technology and practices to minimize emissions and will have the time to consider the latest technology and practices as they plan the construction of a new landfill or construction of a new cell of a modified landfill. Because the emission threshold level of 34 Mg/yr is more stringent than the level the EPA proposed on July 17, 2014, and the impacts associated with this proposed level of control have a different basis than those outlined in the original proposal, the EPA is soliciting comments on the revised analysis of the proposed NSPS in this supplemental proposal. The EPA is also soliciting comments and data that would help identify landfills that are expected to modify, as defined in the proposed NSPS, during the next 5 years (2014–2018). Comments on an NMOC emission threshold of 34 Mg/yr and comments or data on landfills modifying in the next 5 years should be submitted to Docket ID No. EPA–HQ–OAR–2003–0215. The EPA is not otherwise reopening proposed 40 CFR part 60, subpart XXX for additional comment.

C. Public hearing

Please contact Ms. Aimee St. Clair at (919) 541–1063 or at *stclair.aimee@epa.gov* to register to speak at the hearing. The last day to pre-register to speak at the hearing will be September 8, 2015. Requests to speak will be taken the day of the hearing at the hearing registration desk, although preferences on speaking times may not be able to be fulfilled. If you require the service of a translator or special accommodations such as audio description, please let us know at the time of registration.

If a hearing is held, it will provide interested parties the opportunity to present data, views or arguments concerning the proposed action. The

[3] The SC–CO_2 Technical Support Document presents the SC–CO_2 estimates as well as a detailed discussion of the underlying methodology. Docket ID No. EPA–HQ–OAR–2013–0495, Technical Support Document: Technical Update of the Social Cost of Carbon for Regulatory Impact Analysis Under Executive Order 12866, Interagency Working Group on Social Cost of Carbon, with participation by Council of Economic Advisers, Council on Environmental Quality, Department of Agriculture, Department of Commerce, Department of Energy, Department of Transportation, Environmental Protection Agency, National Economic Council, Office of Energy and Climate Change, Office of Management and Budget, Office of Science and Technology Policy, and Department of Treasury (May 2013, Revised November 2013). Available at: *http://www.whitehouse.gov/sites/default/files/omb/assets/inforeg/technical-update-social-cost-of-carbon-for-regulator-impact-analysis.pdf.*

EPA will make every effort to accommodate all speakers who arrive and register. Because this hearing, if held, will be at a U.S. government facility, individuals planning to attend the hearing should be prepared to show valid picture identification to the security staff in order to gain access to the meeting room. Please note that the REAL ID Act, passed by Congress in 2005, established new requirements for entering federal facilities. If your driver's license is issued by Alaska, American Samoa, Arizona, Kentucky, Louisiana, Maine, Massachusetts, Minnesota, Montana, New York, Oklahoma, or the state of Washington, you must present an additional form of identification to enter the federal building. Acceptable alternative forms of identification include: Federal employee badges, passports, enhanced driver's licenses and military identification cards. In addition, you will need to obtain a property pass for any personal belongings you bring with you. Upon leaving the building, you will be required to return this property pass to the security desk. No large signs will be allowed in the building, cameras may only be used outside of the building and demonstrations will not be allowed on federal property for security reasons.

The EPA may ask clarifying questions during the oral presentations, but will not respond to the presentations at that time. Written statements and supporting information submitted during the comment period will be considered with the same weight as oral comments and supporting information presented at the public hearing. Commenters should notify Ms. St. Clair if they will need specific equipment, or if there are other special needs related to providing comments at the hearing. Verbatim transcripts of the hearing and written statements will be included in the docket for the rulemaking. The EPA will make every effort to follow the schedule as closely as possible on the day of the hearing; however, please plan for the hearing to run either ahead of schedule or behind schedule. A public hearing will not be held unless requested. Please contact Ms. Aimee St. Clair at (919) 541–1063 or at *stclair.aimee@epa.gov* to request or register to speak at the hearing or to inquire as to whether a hearing will be held.

II. Statutory and Executive Order Reviews

Additional information about these statues and Executive Orders can be found at *http://www2.epa.gov/laws-regulations/laws-and-executive-orders.*

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

This action supplements a prior proposed action that was determined to be an economically significant regulatory action that was submitted to the Office of Management and Budget (OMB) for review. Any changes made in response to OMB recommendations have been documented in the docket. The EPA prepared an analysis of the potential costs and benefits associated with this action. This analysis, ''Regulatory Impact Analysis for the Proposed Revisions to the Emission Guidelines for Existing Sources and Supplemental Proposed New Source Performance Standards in the Municipal Solid Waste Landfills Sector'' is available in the docket.

B. Paperwork Reduction Act (PRA)

The information collection requirements in this supplemental proposal have been submitted for approval to OMB under the PRA. The Information Collection Request (ICR) document that the EPA prepared for this supplemental proposal has been assigned EPA ICR number 2498.02. You can find a copy of the ICR in the docket for this rule, and it is briefly summarized here.

The information required to be collected is necessary to identify the regulated entities subject to the proposed NSPS and to ensure their compliance with the proposed NSPS and this supplemental proposal. The recordkeeping and reporting requirements are mandatory and are being established under authority of CAA section 114 (42 U.S.C. 7414). All information other than emissions data submitted as part of a report to the agency for which a claim of confidentiality is made will be safeguarded according to CAA section 114(c) and the EPA's implementing regulations at 40 CFR part 2, subpart B.

The information collection requirements in the proposed NSPS (79 FR 41828, July 17, 2014) were submitted for approval to OMB under the PRA. The ICR document that the EPA prepared was assigned EPA ICR number 2498.01. Since the NSPS review was proposed on July 17, 2014, the EPA updated the number of existing landfills likely to modify after July 17, 2014, and, thus, become subject to proposed 40 CFR part 60, subpart XXX, as discussed in this preamble. The supplemental proposal to lower the emission threshold for new and modified sources affects the burden estimates the EPA presented in EPA ICR number 2498.01. As a result, the EPA updated the EPA ICR number 2498.01 and re-submitted it to OMB for approval as EPA ICR 2498.02 to reflect the estimated number of respondents and a lower NMOC emission rate. A copy of the ICR is in Docket ID No. EPA–HQ–OAR–2003–0215, and it is briefly summarized here.

Respondents/affected entities: MSW landfills that commence construction, reconstruction, or modification after July 17, 2014.

Respondent's obligation to respond: Mandatory (40 CFR part 60, subpart XXX).

Estimated number of respondents: 144 MSW landfills that commence construction, reconstruction, or modification after July 17, 2014.

Frequency of response: Initially, occasionally, and annually.

Total estimated burden: 101,031 Hours (per year) for the responding facilities and 2,790 hours (per year) for the agency. These are estimates for the average annual burden for the first 3 years after the rule is final. Burden is defined at 5 CFR 1320.3(b).

Total estimated cost: $6,724,350 (per year), which includes annualized capital or operation and maintenance costs, for the responding facilities and $177,680 (per year) for the agency. These are estimates for the average annual cost for the first 3 years after the rule is final.

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.

Submit your comments on the agency's need for this information, the accuracy of the provided burden estimates and any suggested methods for minimizing respondent burden to the EPA using the docket identified at the beginning of this rule. You may also send your ICR-related comments to OMB's Office of Information and Regulatory Affairs via email to *oria_submissions@omb.eop.gov,* Attention: Desk Officer for the EPA. Since OMB is required to make a decision concerning the ICR between 30 and 60 days after receipt, OMB must receive comments no later than September 28, 2015. The EPA will respond to any ICR-related comments in the final rules.

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. The small entities subject to the requirements of the

supplemental proposal may include private small businesses and small governmental jurisdictions that own or operate landfills. Although it is unknown how many new landfills will be owned or operated by small entities, recent trends in the waste industry have been towards consolidated ownership among larger companies. The EPA has determined that approximately 10 percent of the existing landfills subject to similar regulations (40 CFR part 60, subparts WWW and Cc or the corresponding state or federal plan) are small entities. It was determined that the July 2014 proposed NSPS subpart would not have a significant economic impact on a substantial number of small entities. Given the changes in the number of landfills anticipated to become subject to the new proposed NSPS, the potential impact on small entities has been reanalyzed. The EPA has determined that, with a size threshold of 2.5 million Mg and 2.5 million m^3 and an NMOC emission rate threshold of 34 Mg/yr, approximately two small entities may experience an impact of greater than 1 percent of revenues. Details of the analysis are presented in ''Regulatory Impact Analysis for the Proposed Revisions to the Emission Guidelines for Existing Sources and Supplemental Proposed New Source Performance Standards in the Municipal Solid Waste Landfills Sector,'' located in Docket ID No. EPA–HQ–OAR–2003–0215.

Although not required by the RFA to convene a Small Business Advocacy Review (SBAR) Panel because the EPA has now determined that the proposed NSPS would not have a significant economic impact on a substantial number of small entities, the EPA originally convened a panel to obtain advice and recommendations from small entity representatives potentially subject to this rule's requirements. A copy of the Summary of Small Entity Outreach is included in Docket ID No. EPA–HQ–OAR–2003–0215.

D. Unfunded Mandates Reform Act (UMRA)

This action does not contain any unfunded mandate of $100 million or more as described in UMRA, 2 U.S.C. 1531–1538. This supplemental NSPS proposal applies to landfills that commenced construction, reconstruction, or modification after July 17, 2014. Impacts resulting from the proposed NSPS are far below the applicable threshold. Thus, the proposed NSPS is not subject to the requirements of sections 202 or 205 of the UMRA. However, in developing the proposed NSPS, the EPA consulted with small governments pursuant to a plan established under section 203 of the UMRA to address impacts of regulatory requirements in the rule that might significantly or uniquely affect small governments. The EPA held meetings as discussed in section II.E of this preamble under Federalism consultations.

E. Executive Order 13132: Federalism

The EPA has concluded that the supplemental proposal for the NSPS does not have Federalism implications. The proposed NSPS will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. The supplemental proposal will not have impacts of $25 million or more in any one year. Thus, Executive Order 13132 does not apply to the supplemental proposal.

Although section 6 of Executive Order 13132 does not apply to the supplemental NSPS proposal, the EPA consulted with state and local officials and representatives of state and local governments early in the process of developing the proposed rules for MSW landfills (both the NSPS and Emission Guidelines) to permit them to have meaningful and timely input into its development.

The EPA conducted a Federalism Consultation Outreach Meeting on September 10, 2013. Due to interest in that meeting, additional outreach meetings were held on November 7, 2013, and November 14, 2013. Participants included the National Governors' Association, the National Conference of State Legislatures, the Council of State Governments, the National League of Cities, the U.S. Conference of Mayors, the National Association of Counties, the International City/County Management Association, the National Association of Towns and Townships, the County Executives of America, the Environmental Council of States, National Association of Clean Air Agencies, Association of State and Territorial Solid Waste Management Officials, environmental agency representatives from 43 states, and approximately 60 representatives from city and county governments. The comment period for the outreach meetings related to the NSPS proposal was extended to allow sufficient time for interested parties to review briefing materials and provide comments. Concerns raised during the consultations include: implementation concerns associated with shortening of gas collection system installation and/or expansion timeframes, concerns regarding significant lowering of the design capacity or emission thresholds, the need for clarifications associated with wellhead operating parameters and the need for consistent, clear and rigorous surface monitoring requirements.

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

The supplemental proposal does not have tribal implications, as specified in Executive Order 13175 (65 FR 67249, November 9, 2000). Based on methodology used to predict future landfills as outlined in the docketed memorandum ''Summary of Landfill Dataset Used in the Cost and Emission Reduction Analysis of Landfills Regulations. 2014,'' future tribal landfills are not anticipated to be large enough to become subject to the proposed NSPS or this supplemental proposal. Thus, Executive Order 13175 does not apply to this action. The EPA specifically solicits comment on this action from tribal officials.

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. The supplemental NSPS proposal is not subject to Executive Order 13045 because it does not concern an environmental health risk or safety risk. We also note that the methane and NMOC reductions expected from the proposed NSPS will have positive health effects, including for children.

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

This action is not a ''significant energy action'' because it is not likely to have a significant adverse effect on the supply, distribution, or use of energy. Further, we have concluded that the proposed NSPS and supplemental NSPS proposal are not likely to have any adverse energy effects because the energy demanded to operate these control systems will be offset by additional energy supply from LFG energy projects.

I. National Technology Transfer and Advancement Act

This supplemental NSPS proposal does not involve technical standards, however, the NSPS proposed on July 17, 2014 involves technical standards. For the proposed NSPS, the EPA has proposed to use EPA Methods 2E, 3, 3A, 3C, 21, 25, and 25C of 40 CFR part 60, appendix A. While the EPA identified nine voluntary consensus standards (VCS) as being potentially applicable (ANSI/ASME PTC 19–10–1981 Part 10, ASTM D3154–00 (2006), ASME B133.9–1994 (2001), ISO 10396:1993 (2007), ISO 12039:2001, ASTM D5835–95 (2007), ASTM D6522–00 (2005), CAN/CSA Z223.2–M86 (1999), ISO 14965:2000(E)), the agency decided not to use these methods. The EPA determined that the nine candidate VCS identified for measuring emissions of pollutants or their surrogates subject to emission standards in the rule would not be practical due to lack of equivalency, documentation, validation data, and other important technical and policy considerations. The EPA's review, including review comments for these nine methods, is documented in the memorandum, ''Voluntary Consensus Standard Results for Standards of Performance for Municipal Solid Waste Landfills 40 CFR part 60, subpart XXX'' in the Docket ID No. EPA–HQ–OAR–2003–0215.

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 the proposed NSPS and this supplemental proposal will not have potential disproportionately high and adverse human health or environmental effects on minority, low-income, or indigenous populations because the proposed NSPS and this supplemental proposal would reduce emissions of LFG, which contains both NMOC and methane. These avoided emissions will improve air quality and reduce public health and welfare effects associated with exposure to LFG emissions. Regarding the NSPS proposal and this supplemental proposal, the EPA has concluded that it is not practicable to determine whether there would be disproportionately high and adverse human health or environmental effects on minority, low income, or indigenous populations from the proposed NSPS and supplemental proposal because it is unknown where new or modified facilities will be located. The demographic analysis results and the details concerning their development are presented in the April 22, 2014 document titled, ''2014 Environmental Justice Screening Report for Municipal Solid Waste Landfills,'' a copy of which is available in the docket (Docket ID No. EPA–HQ–OAR–2003–0215).

Dated: August 14, 2015.

Gina McCarthy,

Administrator.

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FEDERAL REGISTER

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Part III

The President

Proclamation 9308—Women's Equality Day, 2015

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Title 3—

The President

Proclamation 9308 of August 24, 2015

Women's Equality Day, 2015

By the President of the United States of America

A Proclamation

On August 26, 1920, after years of agitating to break down the barriers that stood between them and the ballot box, American women won the right to vote. On the front lines of pickets and protests, champions from every corner of our country banded together to expand this fundamental freedom to women and forge a path toward fairer representation and greater opportunity. As we celebrate 95 years since the certification of the 19th Amendment, let us demonstrate our commitment to the belief that we are all entitled to equal treatment by supporting policies that help women succeed and thrive.

Since this historic achievement, our country has made great progress in building a freer and fairer society, and we continue striving to fully realize justice and equality for all. There is still more to do to secure the promise of our Nation for everyone, including ensuring that women have equal opportunities to participate in the classroom, the economy, the workplace, and our democracy. From day one, my Administration has carried forward the torch of gender equality, working tirelessly to ensure that all of America's daughters have the same rights as her sons.

When women succeed, America succeeds. That is why I am committed to fighting for equal pay for equal work, and why the first bill I signed into law as President was the Lilly Ledbetter Fair Pay Act, which extended the time period for employees to file complaints of compensation discrimination. I continue to support passage of the Paycheck Fairness Act because there is no reason why an earnings gap between men and women should persist in the 21st century. Women account for more than half of all workers who would benefit from an increase in the minimum wage, and I have called on the Congress to raise the minimum wage and signed an executive order to raise it to $10.10 for individuals working on new Federal service contracts. I have also proposed expanding overtime protections for certain groups of salaried employees—many of whom are women—and worked to ensure all Americans have access to quality, affordable child care while they are on the job or in school. And because no woman should have to worry about being fired from her job for missing a day of work when she is sick, caring for a sick family member, or welcoming a new child into her family, we have supported States, communities, and businesses in expanding policies for paid family leave and paid sick days. Additionally, we have called on the Congress to pass the Healthy Families Act to allow employees to earn sick leave.

Women deserve to make their own health care choices without interference from politicians or insurance companies. The Affordable Care Act expands insurance coverage for vital health services for women, including contraceptive care, prenatal care, and maternal care, and it protects women from being charged more than men simply based on gender.

Finally, every woman should have the chance to dream, grow, and thrive free from intimidation or violence, and my Administration has taken unprecedented steps to end domestic and sexual violence. We convened a White House Task Force to Protect Students from Sexual Assault, and launched

It's On Us—a campaign aimed at raising awareness of and preventing sexual assault on college campuses. These are part of our broader effort to make sure that all survivors of sexual assault and domestic violence are supported and that our laws are fully enforced.

Women's equality is a core civil and human rights principle in the United States and around the world. Across America, women are contributing to our economy and our Nation in innovative and exciting ways. From businesses to battlefields, women are vital to the prosperity and security of our country. As we celebrate the last 95 years of progress in advancing women's rights, let us rededicate ourselves to the idea that our Nation is not yet complete: there is still work to do to secure the blessings of our country for every American daughter.

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 26, 2015, as Women's Equality Day. I call upon the people of the United States to celebrate the achievements of women and promote gender equality in our country.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-fourth 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.

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