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NUCLEAR REGULATORY COMMISSION

10 CFR Part 50

[NRC–2009–0359]

RIN 3150–AI72

Approval of American Society of Mechanical Engineers' Code Cases; Technical Corrections

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is amending its regulations to make technical corrections, including adding three inadvertently omitted addenda to Section XI, ''Rules for Inservice Inspection of Nuclear Reactor Coolant Systems,'' of the American Society of Mechanical Engineers (ASME) Boiler and Pressure Vessel (B&PV) Code to the list of documents approved for incorporation by reference; and correcting a footnote number. This final rule is necessary to inform the public of these non-substantive changes to the NRC's regulations.

DATES: This rule is effective December 11, 2014. The incorporation by reference of the publications listed in this rule was previously approved by the Director of the Federal Register.

ADDRESSES: Please refer to Docket ID NRC–2009–0359 when contacting the NRC about the availability of information for this action. You may obtain publicly-available information related to this action by any of the following methods:

- Federal Rulemaking Web Site: Go to *http://www.regulations.gov* and search for Docket ID NRC–2009–0359. Address questions about NRC dockets to Carol Gallagher; telephone: 301–287–3422; email: *Carol.Gallagher@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- NRC's Agencywide Documents Access and Management System (ADAMS): You may obtain publicly-available documents online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''ADAMS Public Documents'' and then select ''Begin Web-based ADAMS Search.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.*
- NRC's PDR: You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: Cindy Bladey, Office of Administration, U.S. Nuclear Regulatory Commission, Washington DC 20555–0001; telephone: 301–287–0949, email: *Cindy.Bladey@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Introduction

The NRC is amending its regulations in § 50.55a of Title 10 of the *Code of Federal Regulations* (10 CFR) to make technical corrections. These changes include adding three inadvertently omitted addenda to Section XI of the ASME B&PV Code to the list of documents approved for incorporation by reference, and correcting a footnote number.

This final rule is necessary to inform the public of these non-substantive changes to the NRC's regulations.

II. Summary of Changes

10 CFR Part 50

Insert Missing Addenda. In § 50.55a(a)(1)(ii)(B), three addenda to Section XI of the ASME B&PV Code that were previously approved for incorporation by reference were inadvertently omitted in the proposed rule and final rule published on November 5, 2014 (79 FR 65776). Historically, the NRC's regulations did not list all the documents approved for incorporation by reference but the November 5, 2014, final rule added all the documents to bring the NRC's requirements into compliance with the Office of the Federal Register's (OFR) revised guidelines for incorporating by reference consensus standards. The three missing addenda, ''1975 Winter Addenda,'' ''1976 Summer Addenda,'' and ''1976 Winter Addenda,'' are added to § 50.55a(a)(1)(ii)(B).

Correct Footnote Number. In § 50.55a(e)(1), footnote ''9'' is renumbered as footnote ''7.''

III. Rulemaking Procedure

Under the Administrative Procedure Act (5 U.S.C 553(b)), an agency may waive the normal notice and comments requirements if it finds, for good cause, that they are impracticable, unnecessary, or contrary to the public interest. As authorized by 5 U.S.C. 553(b)(3)(B), the NRC finds good cause to waive notice and opportunity for comment on the amendments, because notice and opportunity for comment are unnecessary. The NRC also finds good cause to make this final rule immediately effective because these amendments do not require action by any person or entity regulated by the NRC. The amendments identify three addenda to Section XI of the ASME B&PV Code which the Office of the Federal Register (OFR) has previously approved for incorporation by reference. In the November 5, 2014, final rule, the NRC inadvertently omitted these three addenda in its list of ASME Code Editions and Addenda approved by the OFR for incorporation by reference. The amendments also correct a footnote number. The final rule does not change the substantive responsibilities of any person or entity regulated by the NRC, and are of a minor and administrative nature which corrects an NRC oversight in the November 5, 2014 final rule.

IV. Environmental Impact: Categorical Exclusion

The NRC has determined that this final rule is the type of action described in categorical exclusion 10 CFR 51.22(c)(2), which excludes from a major action rules that are corrective, minor, or nonpolicy in nature and do not substantially modify existing regulations. Therefore, neither an environmental impact statement nor an environmental assessment has been prepared for this rule.

V. Paperwork Reduction Act Statement

This final rule does not contain information collection requirements and, therefore, is not subject to the

Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Public Protection Notification

The NRC may not conduct or sponsor, and a person is not required to respond to, a request for information or an information collection requirement unless the requesting document displays a currently valid Office of Management and Budget (OMB) control number.

VI. Plain Writing

The Plain Writing Act of 2010 (Pub. L. 111–274) requires Federal agencies to write documents in a clear, concise, and well-organized manner. The NRC has written this document to be consistent with the Plain Writing Act as well as the Presidential Memorandum, ''Plain Language in Government Writing,'' published June 10, 1998 (63 FR 31883).

VII. Backfitting and Issue Finality

The NRC has determined that the amendments in this final rule do not constitute backfitting and are not inconsistent with any of the issue finality provisions in 10 CFR part 52. The amendments are non-substantive in nature, and include adding three inadvertently omitted addenda to Section XI of the ASME B&PV Code to the list of documents approved for incorporation by reference and correcting a footnote number. They impose no new requirements and make no substantive changes to the regulations. The amendments do not involve any provisions that would impose backfits as defined in 10 CFR part 50, or would be inconsistent with the issue finality provisions in 10 CFR part 52. For these reasons, the issuance of the rule in final form would not constitute backfitting or represent an inconsistency with any of the issue finality provisions in 10 CFR part 52. Therefore, the NRC has not prepared any additional documentation for this final rule addressing backfitting or issue finality.

VIII. Congressional Review Act

In accordance with the Congressional Review Act of 1996 (5 U.S.C. 801–808), the NRC has determined that this action is not a major rule and has verified this determination with the Office of Information and Regulatory Affairs, Office of Management and Budget.

List of Subjects in 10 CFR Part 50

Antitrust, Classified information, Criminal penalties, Fire protection, Incorporation by reference, Intergovernmental relations, Nuclear power plants and reactors, Radiation protection, Reactor siting criteria, Reporting and recordkeeping requirements.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended; the Energy Reorganization Act of 1974, as amended; and 5 U.S.C. 552 and 553, the NRC is adopting the following amendments to 10 CFR part 50.

PART 50—DOMESTIC LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

■ 1. The authority citation for part 50 continues to read as follows:

Authority: Atomic Energy Act secs. 102, 103, 104, 105, 147, 149, 161, 181, 182, 183, 186, 189, 223, 234 (42 U.S.C. 2132, 2133, 2134, 2135, 2167, 2169, 2201, 2231, 2232, 2233, 2236, 2239, 2273, 2282); Energy Reorganization Act secs. 201, 202, 206 (42 U.S.C. 5841, 5842, 5846); Nuclear Waste Policy Act sec. 306 (42 U.S.C. 10226); Government Paperwork Elimination Act sec. 1704 (44 U.S.C. 3504 note); Energy Policy Act of 2005, Pub. L. 109–58, 119 Stat. 194 (2005). Section 50.7 also issued under Pub. L. 95–601, sec. 10, as amended by Pub. L. 102–486, sec. 2902 (42 U.S.C. 5851). Section 50.10 also issued under Atomic Energy Act secs. 101, 185 (42 U.S.C. 2131, 2235); National Environmental Protection Act sec. 102 (42 U.S.C. 4332). Sections 50.13, 50.54(d), and 50.103 also issued under Atomic Energy Act sec. 108 (42 U.S.C. 2138). Sections 50.23, 50.35, 50.55, and 50.56 also issued under Atomic Energy Act sec. 185 (42 U.S.C. 2235). Appendix Q also issued under National Environmental Protection Act sec. 102 (42 U.S.C. 4332). Sections 50.34 and 50.54 also issued under sec. 204 (42 U.S.C. 5844). Sections 50.58, 50.91, and 50.92 also issued under Pub. L. 97–415 (42 U.S.C. 2239). Section 50.78 also issued under Atomic Energy Act sec. 122 (42 U.S.C. 2152). Sections 50.80–50.81 also issued under Atomic Energy Act sec. 184 (42 U.S.C. 2234).

■ 2. In § 50.55a, add paragraphs (a)(1)(ii)(B)(*5*) through (*7*) to read as follows:

§ 50.55a Codes and standards.

(a) * * *

(1) * * *

(ii) * * *

(B) * * *

(*5*) 1975 Winter Addenda,

(*6*) 1976 Summer Addenda, and

(*7*) 1976 Winter Addenda.

* * * * *

§ 50.55a [Amended]

■ 3. In § 50.55a, paragraph (e)(1), in the second sentence, remove footnote ''9'' and add, in its place, footnote ''7''.

Dated at Rockville, Maryland, this 8th day of December 2014.

For the Nuclear Regulatory Commission.

Cindy Bladey,

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

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No.: FAA–2013–0142; Amdt. No. 25–141]

RIN 2120–AK12

Harmonization of Airworthiness Standards—Gust and Maneuver Load Requirements

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This final rule amends certain airworthiness regulations for transport category airplanes, based on recommendations from the FAA-sponsored Aviation Rulemaking Advisory Committee (ARAC). This amendment eliminates regulatory differences between the airworthiness standards of the FAA and European Aviation Safety Agency (EASA). It does not add new requirements beyond what manufacturers currently meet for EASA certification and does not affect current industry design practices. This final rule revises the pitch maneuver design loads criteria; revises the gust and turbulence design loads criteria; revises the application of gust loads to engine mounts, high lift devices, and other control surfaces; adds a ''round-the-clock'' discrete gust criterion and a multi-axis discrete gust criterion for airplanes equipped with wing-mounted engines; revises the engine torque loads criteria; adds an engine failure dynamic load condition; revises the ground gust design loads criteria; revises the criteria used to establish the rough air design speed; and requires the establishment of a rough air Mach number.

DATES: Effective February 9, 2015.

ADDRESSES: For information on where to obtain copies of rulemaking documents and other information related to this final rule, see ''How To Obtain Additional Information'' in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: For technical questions concerning this action, contact Todd Martin, Airframe and Cabin Safety Branch, ANM–115,

Transport Airplane Directorate, Aircraft Certification Service, Federal Aviation Administration, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone (425) 227–1178; facsimile (425) 227–1232; email *Todd.Martin@faa.gov.*

For legal questions concerning this action, contact Sean Howe, Office of the Regional Counsel, ANM–7, Federal Aviation Administration, 1601 Lind Avenue SW., Renton, Washington 98057–3356; telephone (425) 227–2591; facsimile (425) 227–1007; email *Sean.Howe@faa.gov.*

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules on 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 III, Section 44701, ''General Requirements.'' Under that section, the FAA is charged with promoting safe flight of civil aircraft in air commerce by prescribing regulations and minimum standards for the design and performance of aircraft that the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority. It prescribes new safety standards for the design and operation of transport category airplanes.

I. Overview of Final Rule

The FAA is amending Title 14, Code of Federal Regulations (14 CFR) Part 25 as described below. This action harmonizes part 25 requirements with the corresponding requirements in Book 1 of the EASA Certification Specifications and Acceptable Means of Compliance for Large Aeroplanes (CS–25). As such, this action—

1. Revises § 25.331, ''Symmetric maneuvering conditions,'' to prescribe both positive and negative checked pitch maneuver loads that take into account the size of the airplane and any effects of the flight control system. The introductory paragraph, § 25.331(c), is revised by moving some criteria to § 25.331(c)(2) where those criteria apply.

2. Removes appendix G to part 25, ''Continuous Gust Design Criteria,'' and § 25.341(b) now clearly sets forth the continuous turbulence requirement.

3. Revises § 25.341, ''Gust and turbulence loads,'' to—

- Remove the optional mission analysis method currently specified in appendix G in favor of the design envelope analysis method.
- Update the turbulence intensity criteria in § 25.341(b) to take into account in-service measurements of derived gust intensities.
- Update § 25.341(a) to require evaluation of discrete gust conditions at airplane speeds from design speed for maximum gust intensity, V_B, to design cruising speed, V_C, (previously required only at V_C) and to specify reference gust velocities up to 60,000 feet, rather than the previously specified 50,000 feet.
- Add a new paragraph § 25.341(c) that specifies a ''round-the-clock'' discrete gust criterion and a multi-axis discrete gust criterion for airplanes equipped with wing-mounted engines.

4. Revises § 25.343, ''Design fuel and oil loads,'' § 25.345, ''High lift devices,'' § 25.371, ''Gyroscopic loads,'' § 25.373, ''Speed control devices,'' and § 25.391, ''Control surface loads: General,'' by adding to each of these regulations a requirement to evaluate the continuous turbulence loads criteria in § 25.341(b).

5. Revises § 25.361, ''Engine and auxiliary power unit torque,'' to—

- Remove the requirement to assess engine torque loads due to engine structural failures (this requirement is re-established in the new § 25.362, outlined below).
- Provide specific engine torque load criteria for auxiliary power unit installations.
- Remove the requirements that apply to reciprocating engines.
- Change the title of § 25.361 from ''Engine torque'' to ''Engine and auxiliary power unit torque.''

6. Adds new § 25.362, ''Engine failure loads,'' to require engine mounts and supporting airframe structure be designed for 1g flight loads combined with the most critical transient dynamic loads and vibrations resulting from failure of a blade, shaft, bearing or bearing support, or bird strike event.

7. Revises § 25.391, ''Control surface loads: General,'' and § 25.395, ''Control system,'' to remove references to the ground gust requirements in § 25.415.

8. Revises § 25.415, ''Ground gust conditions'' to—

- Reorganize and clarify the design conditions to be considered.
- Identify the components and parts of the control system to which each of the conditions apply.
- Make it stand alone in regard to the required multiplying factors and to provide an additional multiplying factor to account for dynamic amplification.

9. Revises § 25.1517, ''Rough air speed, V_{RA}'' to remove the reference to VB in the definition of rough air speed and to require that a rough air Mach number, MRA, be established in addition to rough air speed. Also, this action removes the reference to § 25.1585, ''Operating procedures,'' because it is no longer applicable since that regulation was modified.

II. Background

A. Statement of the Problem

Part 25 prescribes airworthiness standards for type certification of transport category airplanes for products certified in the United States. EASA CS–25 Book 1 prescribes the corresponding airworthiness standards for products certified in Europe. While part 25 and CS–25 Book 1 are similar, they differ in several respects.

The FAA tasked ARAC through the Loads and Dynamics Harmonization Working Group (LDHWG) to review existing structures regulations and recommend changes that would eliminate differences between the U.S. and European airworthiness standards. The LDHWG developed recommendations, which EASA has incorporated into CS–25 with some changes. The FAA agrees with the ARAC recommendations as adopted by EASA, and this final rule amends part 25 accordingly.

B. Summary of the NPRM

On May 6, 2013, the FAA issued a Notice of Proposed Rulemaking (NPRM), Notice No. 25–139,[1] Docket No. FAA–2013–0142, to amend §§ 25.331, 25.341, 25.343, 25.345, 25.361, 25.371, 25.373, 25.391, 25.395, 25.415, and 25.1517; to add § 25.362; and to remove appendix G of 14 CFR part 25. That NPRM was published in the **Federal Register** on May 28, 2013 (78 FR 31851). In the NPRM, the FAA proposed to (1) revise the pitch maneuver design loads criteria; (2) revise the gust and turbulence design loads criteria; (3) revise the application of gust loads to engine mounts, high lift devices, and other control surfaces; (4) add a ''round-the-clock'' discrete gust criterion and a multi-axis discrete gust criterion for airplanes equipped with wing-mounted engines; (5) revise the engine torque loads criteria and add an engine failure dynamic load condition; (6) revise the ground gust design loads criteria; (7) revise the criteria used to establish the rough air design speed; and (8) require the establishment of a rough air Mach number.

[1] On April 16, 2014, the **Federal Register** published a correction (79 FR 21413) changing the Notice No. to ''13–04'' for the NPRM that published May 28, 2013 (78 FR 31851) and for subsequent NPRM corrections that published June 24, 2013 (78 FR 37722) and July 16, 2013 (78 FR 42480).

The FAA proposed these changes to eliminate regulatory differences between the airworthiness standards of the FAA and EASA. The NPRM comment period closed on August 26, 2013.

On June 24, 2013, the **Federal Register** published a correction to the NPRM to correct three equations in the proposed amendments to § 25.341 (78 FR 37722). On July 16, 2013, the **Federal Register** published a second correction to one equation in the proposed amendments to § 25.341 (78 FR 42480). The equations in this final rule have not changed from those in the corrected NPRM.

C. General Overview of Comments

The FAA received two comments. One commenter supported the NPRM and the ongoing international harmonization of certification requirements. The other comment addressed § 25.341 and is discussed below.

III. Discussion of Public Comments and Final Rule

A. Section 25.341, ''Gust and Turbulence Loads''

Section 25.341(a)(6) uses the term Z_{mo}, which is the maximum operating altitude, in feet, specifically defined in § 25.1527. A commenter noted that the units for the term Z_{mo} are not provided in the current rule. While § 25.341(a)(6) was not being revised as part of this rulemaking, the commenter recommended that this paragraph be revised to include the appropriate units for Z_{mo} (feet) for ease of reference. We agree, and revise the rule as recommended.

B. Section 25.415, ''Ground Gust Conditions''

After further FAA review of what we proposed by NPRM, we now specify that control system gust locks are to be taken into account only when the airplane is so equipped. As proposed, § 25.415 would have required that the airplane be evaluated while taxiing with the controls locked and unlocked, and while parked with the controls locked. However, many transport category airplanes with powered flight controls do not have control system gust locks. As noted in the NPRM, these airplanes rely on their hydraulic actuators to provide protection from ground gusts. We, therefore, now revise § 25.415 to clarify that, for all airplanes, the ground gust conditions apply when the airplane is taxiing and while parked. For airplanes that include control system gust locks, the taxiing condition must be evaluated with the controls locked and unlocked, and the parked condition must be evaluated with the controls locked. Airplanes not equipped with gust locks are to be evaluated in their normal configuration while taxiing and while parked. With these changes to § 25.415, the rule wording will no longer be exactly the same as CS 25.415; however, the intent of the two rules is the same in how airplanes with and without gust locks are evaluated.

C. Advisory Material

On May 31, 2013, the FAA published and solicited public comments on three proposed ACs that describe acceptable means for showing compliance with the NPRM's proposed regulations. The comment period for the proposed ACs closed on September 26, 2013. The FAA did not receive any comments on the proposed ACs. Concurrently with this final rule, the FAA is issuing the following final ACs to provide guidance material for the new regulations adopted by this amendment:

- AC 25.341–1, ''Dynamic Gust Loads.''
- AC 25.362–1, ''Engine Failure Loads.''
- AC 25.415–1, ''Ground Gust Conditions.''

IV. Regulatory Notices and Analyses

A. Regulatory Evaluation

Changes to Federal regulations must undergo several economic analyses. First, Executive Order 12866 and Executive Order 13563 direct that each Federal agency shall propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs. Second, the Regulatory Flexibility Act of 1980 (Public Law 96–354) requires agencies to analyze the economic impact of regulatory changes on small entities. Third, the Trade Agreements Act (Pub. L. 96–39) prohibits agencies from setting standards that create unnecessary obstacles to the foreign commerce of the United States. In developing U.S. standards, the Trade Act requires agencies to consider international standards and, where appropriate, that they be the basis of U.S. standards. Fourth, the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) requires agencies to prepare a written assessment of the costs, benefits, and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of $100 million or more annually (adjusted for inflation with base year of 1995). This portion of the preamble summarizes the FAA's analysis of the economic impacts of this final rule.

Department of Transportation Order DOT 2100.5 prescribes policies and procedures for simplification, analysis, and review of regulations. If the expected cost impact is so minimal that a proposed or final rule does not warrant a full evaluation, this order permits that a statement to that effect and the basis for it be included in the preamble if a full regulatory evaluation of the cost and benefits is not prepared. Such a determination has been made for this final rule. The reasoning for this determination follows.

The FAA is amending certain airworthiness standards for transport category airplanes. Adopting this final rule will eliminate regulatory differences between the airworthiness standards of the FAA and EASA. This final rule does not add new requirements beyond what manufacturers currently meet for EASA certification and does not affect current industry design practices. Meeting two sets of certification requirements raises the cost of developing new transport category airplanes with little to no increase in safety. In the interest of fostering international trade, lowering the cost of manufacturing new transport category airplanes, and making the certification process more efficient, the FAA, EASA, and several industry working groups came together to create, to the maximum extent possible, a single set of certification requirements that would be accepted in both the United States and Europe. Therefore, as a result of these harmonization efforts, the FAA is amending the airworthiness regulations described in section I of this final rule, ''Overview of Final Rule.'' This action harmonizes part 25 requirements with the corresponding requirements in EASA CS–25 Book 1.

Currently, all manufacturers of transport category airplanes, certificated under part 25 are expected to continue their current practice of compliance with the EASA certification requirements in CS–25 Book 1. Since future certificated transport airplanes are expected to meet CS–25 Book 1, and this rule simply adopts EASA requirements, manufacturers will incur minimal or no additional cost resulting from this final rule. The FAA made this same determination in the NPRM and received no comments.

The FAA has, therefore, determined that this final rule is not a ''significant regulatory action'' as defined in section 3(f) of Executive Order 12866, and is not ''significant'' as defined in DOT's Regulatory Policies and Procedures.

B. Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (Public Law 96–354) (RFA) establishes ''as a principle of regulatory issuance that agencies shall endeavor, consistent with the objectives of the rule and of applicable statutes, to fit regulatory and informational requirements to the scale of the businesses, organizations, and governmental jurisdictions subject to regulation. To achieve this principle, agencies are required to solicit and consider flexible regulatory proposals and to explain the rationale for their actions to assure that such proposals are given serious consideration.'' The RFA covers a wide-range of small entities, including small businesses, not-for-profit organizations, and small governmental jurisdictions.

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

However, if an agency determines that a rule is not expected to have a significant economic impact on a substantial number of small entities, section 605(b) of the RFA provides that the head of the agency may so certify, and a regulatory flexibility analysis is not required. The certification must include a statement providing the factual basis for this determination, and the reasoning should be clear.

In the NPRM, the FAA determined that this rule would not impose more than minimal cost.

The FAA believes that this final rule does not have a significant economic impact on a substantial number of small entities for the following reasons. We did not receive any comments from small entities. All United States transport category airplane manufacturers exceed the Small Business Administration small-entity criteria of 1,500 employees. Therefore, as provided in section 605(b), the head of the FAA certifies that this rulemaking will not result in a significant economic impact on a substantial number of small entities.

C. International Trade Impact Assessment

The Trade Agreements Act of 1979 (Pub. L. 96–39), as amended by the Uruguay Round Agreements Act (Pub. L. 103–465), prohibits Federal agencies from establishing standards or engaging in related activities that create unnecessary obstacles to the foreign commerce of the United States. Pursuant to these Acts, the establishment of standards is not considered an unnecessary obstacle to the foreign commerce of the United States, so long as the standard has a legitimate domestic objective, such the protection of safety, and does not operate in a manner that excludes imports that meet this objective. The statute also requires consideration of international standards and, where appropriate, that they be the basis for U.S. standards. The FAA has assessed the potential effect of this final rule and determined that it is in accord with the Trade Agreements Act as the rule furthers the legitimate domestic objectives of safety, creates no unnecessary obstacles to foreign commerce, does not exclude imports, and uses European standards as the basis for United States regulation.

D. Unfunded Mandates Assessment

Title II of the Unfunded Mandates Reform Act of 1995 (Public Law 104–4) requires each Federal agency to prepare a written statement assessing the effects of any Federal mandate in a proposed or final agency rule that may result in an expenditure of $100 million or more (in 1995 dollars) in any one year by State, local, and tribal governments, in the aggregate, or by the private sector; such a mandate is deemed to be a ''significant regulatory action.'' The FAA currently uses an inflation-adjusted value of $151 million in lieu of $100 million. This final rule does not contain such a mandate; therefore, the requirements of Title II of the Act do not apply.

E. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) requires that the FAA consider the impact of paperwork and other information collection burdens imposed on the public. The FAA has determined that there is no new requirement for information collection associated with this final rule.

F. International Compatibility and Cooperation

(1) In keeping with U.S. obligations under the Convention on International Civil Aviation, it is FAA policy to conform to International Civil Aviation Organization (ICAO) Standards and Recommended Practices to the maximum extent practicable. The FAA has reviewed the corresponding ICAO Standards and Recommended Practices and has identified no differences with these regulations.

(2) Executive Order (EO) 13609, Promoting International Regulatory Cooperation (77 FR 26413, May 4, 2012), promotes international regulatory cooperation to meet shared challenges involving health, safety, labor, security, environmental, and other issues and reduce, eliminate, or prevent unnecessary differences in regulatory requirements. The FAA has analyzed this action under the policy and agency responsibilities of Executive Order 13609, Promoting International Regulatory Cooperation. The agency has determined that this action would eliminate differences between U.S. aviation standards and those of other civil aviation authorities by creating a single set of certification requirements for transport category airplanes that would be acceptable in both the United States and Europe.

G. Environmental Analysis

FAA Order 1050.1E identifies FAA actions that are categorically excluded from preparation of an environmental assessment or environmental impact statement under the National Environmental Policy Act in the absence of extraordinary circumstances. The FAA has determined this rulemaking action qualifies for the categorical exclusion identified in paragraph 312f of Order 1050.1E and involves no extraordinary circumstances.

V. Executive Order Determinations

A. Executive Order 13132, Federalism

The FAA has analyzed this final rule under the principles and criteria of Executive Order 13132, Federalism. The agency determined that this action will not have a substantial direct effect on the States, or the relationship between the Federal Government and the States, or on the distribution of power and responsibilities among the various levels of government, and, therefore, does not have Federalism implications.

B. Executive Order 13211, Regulations That Significantly Affect Energy Supply, Distribution, or Use

The FAA analyzed this final rule under Executive Order 13211, Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use (May 18, 2001). The agency has determined that it is not a ''significant energy action'' under the executive order and it is not likely to have a significant adverse effect on the supply, distribution, or use of energy.

VI. How To Obtain Additional Information

A. Rulemaking Documents

An electronic copy of a rulemaking document may be obtained by using the Internet—

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

2. Visit the FAA's Regulations and Policies Web page at *http://www.faa.gov/regulations_policies/,* or

3. Access the Government Printing Office's Web page at *http://www.gpo.gov/fdsys/.*

Copies may also be obtained by sending a request (identified by notice, amendment, or docket number of this rulemaking) to the Federal Aviation Administration, Office of Rulemaking, ARM–1, 800 Independence Avenue SW., Washington, DC 20591; or by calling (202) 267–9680.

B. Comments Submitted to the Docket

Comments received may be viewed by going to *http://www.regulations.gov* and following the online instructions to search the docket number for this action. Anyone is able to search the electronic form of all comments received into any of the FAA's 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.).

C. Small Business Regulatory Enforcement Fairness Act

The Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996 requires the FAA to comply with small entity requests for information or advice about compliance with statutes and regulations within its jurisdiction. A small entity with questions regarding this document, may contact its local FAA official, or the person listed under the **FOR FURTHER INFORMATION CONTACT** heading at the beginning of the preamble. To find out more about SBREFA on the Internet, visit *http://www.faa.gov/regulations_policies/rulemaking/sbre_act/.*

List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

The Amendment

In consideration of the foregoing, the Federal Aviation Administration amends part 25 of title 14, Code of Federal Regulations as follows:

PART 25—AIRWORTHINESS STANDARDS: TRANSPORT CATEGORY AIRPLANES

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

Authority: 49 U.S.C. 106(g), 40113, 44701, 44702, and 44704.

■ 2. Amend § 25.331 by revising paragraph (c) introductory text and paragraph (c)(2) to read as follows:

§ 25.331 Symmetric maneuvering conditions.

* * * * *

(c) *Maneuvering pitching conditions.* The following conditions must be investigated:

* * * * *

(2) *Checked maneuver between V_A and V_D.* Nose-up checked pitching maneuvers must be analyzed in which the positive limit load factor prescribed in § 25.337 is achieved. As a separate condition, nose-down checked pitching maneuvers must be analyzed in which a limit load factor of 0g is achieved. In defining the airplane loads, the flight deck pitch control motions described in paragraphs (c)(2)(i) through (iv) of this section must be used:

(i) The airplane is assumed to be flying in steady level flight at any speed between V_A and V_D and the flight deck pitch control is moved in accordance with the following formula:

$\delta(t) = \delta_1 \sin(\omega t)$ for $0 \le t \le t_{max}$

Where—

δ_1 = the maximum available displacement of the flight deck pitch control in the initial direction, as limited by the control system stops, control surface stops, or by pilot effort in accordance with § 25.397(b);

$\delta(t)$ = the displacement of the flight deck pitch control as a function of time. In the initial direction, $\delta(t)$ is limited to δ_1. In the reverse direction, $\delta(t)$ may be truncated at the maximum available displacement of the flight deck pitch control as limited by the control system stops, control surface stops, or by pilot effort in accordance with 25.397(b);

$t_{max} = 3\pi/2\omega$;

ω = the circular frequency (radians/second) of the control deflection taken equal to the undamped natural frequency of the short period rigid mode of the airplane, with active control system effects included where appropriate; but not less than:

$$\omega = \frac{\pi V}{2V_A} \text{ radians per second;}$$

Where

V = the speed of the airplane at entry to the maneuver.

V_A = the design maneuvering speed prescribed in § 25.335(c).

(ii) For nose-up pitching maneuvers, the complete flight deck pitch control displacement history may be scaled down in amplitude to the extent necessary to ensure that the positive limit load factor prescribed in § 25.337 is not exceeded. For nose-down pitching maneuvers, the complete flight deck control displacement history may be scaled down in amplitude to the extent necessary to ensure that the normal acceleration at the center of gravity does not go below 0g.

(iii) In addition, for cases where the airplane response to the specified flight deck pitch control motion does not achieve the prescribed limit load factors, then the following flight deck pitch control motion must be used:

$\delta(t) = \delta_1 \sin(\omega t)$ for $0 \le t \le t_1$

$\delta(t) = \delta_1$ for $t_1 \le t \le t_2$

$\delta(t) = \delta_1 \sin(\omega[t + t_1 - t_2])$ for $t_2 \le t \le t_{max}$

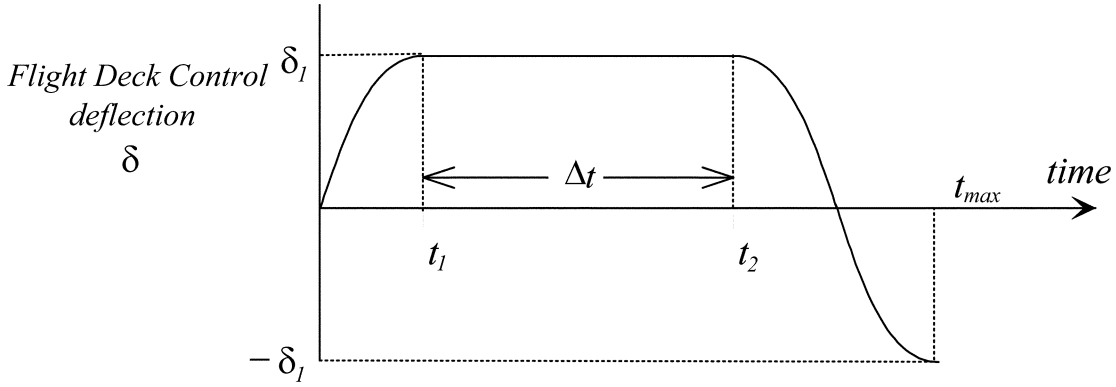
Where—

$t_1 = \pi/2\omega$

$t_2 = t_1 + \Delta t$

$t_{max} = t_2 + \pi/\omega$;

Δt = the minimum period of time necessary to allow the prescribed limit load factor to be achieved in the initial direction, but it need not exceed five seconds (see figure below).



(iv) In cases where the flight deck pitch control motion may be affected by inputs from systems (for example, by a stick pusher that can operate at high load factor as well as at 1g), then the effects of those systems shall be taken into account.

(v) Airplane loads that occur beyond the following times need not be considered:

(A) For the nose-up pitching maneuver, the time at which the normal acceleration at the center of gravity goes below 0g;

(B) For the nose-down pitching maneuver, the time at which the normal acceleration at the center of gravity goes above the positive limit load factor prescribed in § 25.337;

(C) $t_{max.}$.

■ 3. Amend § 25.341 by revising paragraphs (a)(5)(i), (a)(6), and (b), and by adding paragraph (c) to read as follows:

§ 25.341 Gust and turbulence loads.

(a) * * *

* * * * *

(5) * * *

(i) At airplane speeds between V_B and V_C: Positive and negative gusts with reference gust velocities of 56.0 ft/sec EAS must be considered at sea level. The reference gust velocity may be reduced linearly from 56.0 ft/sec EAS at sea level to 44.0 ft/sec EAS at 15,000 feet. The reference gust velocity may be further reduced linearly from 44.0 ft/sec EAS at 15,000 feet to 20.86 ft/sec EAS at 60,000 feet.

* * * * *

(6) * * *

Z_{mo} = Maximum operating altitude defined in § 25.1527 (feet).

* * * * *

(b) *Continuous turbulence design criteria.* The dynamic response of the airplane to vertical and lateral continuous turbulence must be taken into account. The dynamic analysis must take into account unsteady aerodynamic characteristics and all significant structural degrees of freedom including rigid body motions. The limit loads must be determined for all critical altitudes, weights, and weight distributions as specified in § 25.321(b), and all critical speeds within the ranges indicated in § 25.341(b)(3).

(1) Except as provided in paragraphs (b)(4) and (5) of this section, the following equation must be used:

$$P_L = P_{L-1g} \pm U_\sigma \overline{A}$$

Where—

P_L = limit load;

P_{L-1g} = steady 1g load for the condition;

$\overline{A}$ = ratio of root-mean-square incremental load for the condition to root-mean-square turbulence velocity; and

U_σ = limit turbulence intensity in true airspeed, specified in paragraph (b)(3) of this section.

(2) Values of $\overline{A}$ must be determined according to the following formula:

$$\overline{A} = \sqrt{\int_0^\infty |H(\Omega)|^2 \Phi(\Omega) d\Omega}$$

Where—

$H(\Omega)$ = the frequency response function, determined by dynamic analysis, that relates the loads in the aircraft structure to the atmospheric turbulence; and

$\Phi(\Omega)$ = normalized power spectral density of atmospheric turbulence given by—

$$\Phi(\Omega) = \frac{L}{\pi} \frac{1 + \frac{8}{3}(1.339\Omega L)^2}{\left[1 + (1.339\Omega L)^2\right]^{11/6}}$$

Where—

Ω = reduced frequency, radians per foot; and

L = scale of turbulence = 2,500 ft.

(3) The limit turbulence intensities, U_σ, in feet per second true airspeed required for compliance with this paragraph are—

(i) At airplane speeds between V_B and V_C: $U_\sigma = U_{\sigma\rho\varepsilon\phi} F_g$

Where—

$U_{\sigma\rho\varepsilon\phi}$ is the reference turbulence intensity that varies linearly with altitude from 90 fps (TAS) at sea level to 79 fps (TAS) at 24,000 feet and is then constant at 79 fps (TAS) up to the altitude of 60,000 feet.

F_g is the flight profile alleviation factor defined in paragraph (a)(6) of this section;

(ii) At speed V_D: U_σ is equal to ½ the values obtained under paragraph (b)(3)(i) of this section.

(iii) At speeds between V_C and V_D: U_σ is equal to a value obtained by linear interpolation.

(iv) At all speeds, both positive and negative incremental loads due to continuous turbulence must be considered.

(4) When an automatic system affecting the dynamic response of the airplane is included in the analysis, the effects of system non-linearities on loads at the limit load level must be taken into account in a realistic or conservative manner.

(5) If necessary for the assessment of loads on airplanes with significant non-linearities, it must be assumed that the turbulence field has a root-mean-square velocity equal to 40 percent of the U_σ values specified in paragraph (b)(3) of this section. The value of limit load is that load with the same probability of exceedance in the turbulence field as $\overline{A}U_\sigma$ of the same load quantity in a linear approximated model.

(c) *Supplementary gust conditions for wing-mounted engines.* For airplanes equipped with wing-mounted engines, the engine mounts, pylons, and wing supporting structure must be designed for the maximum response at the nacelle center of gravity derived from the following dynamic gust conditions applied to the airplane:

(1) A discrete gust determined in accordance with § 25.341(a) at each angle normal to the flight path, and separately,

(2) A pair of discrete gusts, one vertical and one lateral. The length of each of these gusts must be independently tuned to the maximum response in accordance with § 25.341(a). The penetration of the airplane in the combined gust field and the phasing of

the vertical and lateral component gusts must be established to develop the maximum response to the gust pair. In the absence of a more rational analysis, the following formula must be used for each of the maximum engine loads in all six degrees of freedom:

$$P_L = P_{L-1g} \pm 0.85\sqrt{L_V^2 + L_L^2}$$

Where—

P_L = limit load;

P_{L-1g} = steady 1g load for the condition;

L_V = peak incremental response load due to a vertical gust according to § 25.341(a); and

L_L = peak incremental response load due to a lateral gust according to § 25.341(a).

■ 4. Amend § 25.343 by revising paragraph (b)(1)(ii) to read as follows:

§ 25.343 Design fuel and oil loads.

* * * * *

(b) * * *

(1) * * *

(ii) The gust and turbulence conditions of § 25.341(a) and (b), but assuming 85% of the gust velocities prescribed in § 25.341(a)(4) and 85% of the turbulence intensities prescribed in § 25.341(b)(3).

* * * * *

■ 5. Amend § 25.345 by revising paragraph (c)(2) to read as follows:

§ 25.345 High lift devices.

* * * * *

(c) * * *

(2) The vertical gust and turbulence conditions prescribed in § 25.341(a) and (b).

* * * * *

■ 6. Revise § 25.361 to read as follows:

§ 25.361 Engine and auxiliary power unit torque.

(a) For engine installations—

(1) Each engine mount, pylon, and adjacent supporting airframe structures must be designed for the effects of—

(i) A limit engine torque corresponding to takeoff power/thrust and, if applicable, corresponding propeller speed, acting simultaneously with 75% of the limit loads from flight condition A of § 25.333(b);

(ii) A limit engine torque corresponding to the maximum continuous power/thrust and, if applicable, corresponding propeller speed, acting simultaneously with the limit loads from flight condition A of § 25.333(b); and

(iii) For turbopropeller installations only, in addition to the conditions specified in paragraphs (a)(1)(i) and (ii) of this section, a limit engine torque corresponding to takeoff power and propeller speed, multiplied by a factor accounting for propeller control system malfunction, including quick feathering, acting simultaneously with 1g level flight loads. In the absence of a rational analysis, a factor of 1.6 must be used.

(2) The limit engine torque to be considered under paragraph (a)(1) of this section must be obtained by—

(i) For turbopropeller installations, multiplying mean engine torque for the specified power/thrust and speed by a factor of 1.25;

(ii) For other turbine engines, the limit engine torque must be equal to the maximum accelerating torque for the case considered.

(3) The engine mounts, pylons, and adjacent supporting airframe structure must be designed to withstand 1g level flight loads acting simultaneously with the limit engine torque loads imposed by each of the following conditions to be considered separately:

(i) Sudden maximum engine deceleration due to malfunction or abnormal condition; and

(ii) The maximum acceleration of engine.

(b) For auxiliary power unit installations, the power unit mounts and adjacent supporting airframe structure must be designed to withstand 1g level flight loads acting simultaneously with the limit torque loads imposed by each of the following conditions to be considered separately:

(1) Sudden maximum auxiliary power unit deceleration due to malfunction, abnormal condition, or structural failure; and

(2) The maximum acceleration of the auxiliary power unit.

■ 7. Add § 25.362 to read as follows:

§ 25.362 Engine failure loads.

(a) For engine mounts, pylons, and adjacent supporting airframe structure, an ultimate loading condition must be considered that combines 1g flight loads with the most critical transient dynamic loads and vibrations, as determined by dynamic analysis, resulting from failure of a blade, shaft, bearing or bearing support, or bird strike event. Any permanent deformation from these ultimate load conditions must not prevent continued safe flight and landing.

(b) The ultimate loads developed from the conditions specified in paragraph (a) of this section are to be—

(1) Multiplied by a factor of 1.0 when applied to engine mounts and pylons; and

(2) Multiplied by a factor of 1.25 when applied to adjacent supporting airframe structure.

■ 8. Revise § 25.371 to read as follows:

§ 25.371 Gyroscopic loads.

The structure supporting any engine or auxiliary power unit must be designed for the loads, including gyroscopic loads, arising from the conditions specified in §§ 25.331, 25.341, 25.349, 25.351, 25.473, 25.479, and 25.481, with the engine or auxiliary power unit at the maximum rotating speed appropriate to the condition. For the purposes of compliance with this paragraph, the pitch maneuver in § 25.331(c)(1) must be carried out until the positive limit maneuvering load factor (point A_2 in § 25.333(b)) is reached.

■ 9. Amend § 25.373 by revising paragraph (a) to read as follows:

§ 25.373 Speed control devices.

* * * * *

(a) The airplane must be designed for the symmetrical maneuvers prescribed in §§ 25.333 and 25.337, the yawing maneuvers in § 25.351, and the vertical and lateral gust and turbulence conditions prescribed in § 25.341(a) and (b) at each setting and the maximum speed associated with that setting; and

* * * * *

■ 10. Amend § 25.391 by revising the introductory text to read as follows:

§ 25.391 Control surface loads: General.

The control surfaces must be designed for the limit loads resulting from the flight conditions in §§ 25.331, 25.341(a) and (b), 25.349, and 25.351, considering the requirements for—

* * * * *

■ 11. Amend § 25.395 by revising paragraph (b) to read as follows:

§ 25.395 Control system.

* * * * *

(b) The system limit loads of paragraph (a) of this section need not exceed the loads that can be produced by the pilot (or pilots) and by automatic or power devices operating the controls.

* * * * *

■ 12. Revise § 25.415 to read as follows:

§ 25.415 Ground gust conditions.

(a) The flight control systems and surfaces must be designed for the limit loads generated when the airplane is subjected to a horizontal 65-knot ground gust from any direction while taxiing and while parked. For airplanes equipped with control system gust locks, the taxiing condition must be evaluated with the controls locked and unlocked, and the parked condition must be evaluated with the controls locked.

(b) The control system and surface loads due to ground gust may be

assumed to be static loads, and the hinge moments H must be computed from the formula:

$H = K (1/2) \rho_o V^2 c S$

Where—

K = hinge moment factor for ground gusts derived in paragraph (c) of this section;

ρ_o = density of air at sea level;

V = 65 knots relative to the aircraft;

S = area of the control surface aft of the hinge line;

c = mean aerodynamic chord of the control surface aft of the hinge line.

(c) The hinge moment factor K for ground gusts must be taken from the following table:

Surface	K	Position of controls
(1) Aileron	0.75	Control column locked or lashed in mid-position.
(2) Aileron	*±0.50	Ailerons at full throw.
(3) Elevator	*±0.75	Elevator full down.
(4) Elevator	*±0.75	Elevator full up.
(5) Rudder	0.75	Rudder in neutral.
(6) Rudder	0.75	Rudder at full throw.

*A positive value of K indicates a moment tending to depress the surface, while a negative value of K indicates a moment tending to raise the surface.

(d) The computed hinge moment of paragraph (b) of this section must be used to determine the limit loads due to ground gust conditions for the control surface. A 1.25 factor on the computed hinge moments must be used in calculating limit control system loads.

(e) Where control system flexibility is such that the rate of load application in the ground gust conditions might produce transient stresses appreciably higher than those corresponding to static loads, in the absence of a rational analysis substantiating a different dynamic factor, an additional factor of 1.6 must be applied to the control system loads of paragraph (d) of this section to obtain limit loads. If a rational analysis is used, the additional factor must not be less than 1.2.

(f) For the condition of the control locks engaged, the control surfaces, the control system locks, and the parts of any control systems between the surfaces and the locks must be designed to the resultant limit loads. Where control locks are not provided, then the control surfaces, the control system stops nearest the surfaces, and the parts of any control systems between the surfaces and the stops must be designed to the resultant limit loads. If the control system design is such as to allow any part of the control system to impact with the stops due to flexibility, then the resultant impact loads must be taken into account in deriving the limit loads due to ground gust.

(g) For the condition of taxiing with the control locks disengaged, or where control locks are not provided, the following apply:

(1) The control surfaces, the control system stops nearest the surfaces, and the parts of any control systems between the surfaces and the stops must be designed to the resultant limit loads.

(2) The parts of the control systems between the stops nearest the surfaces and the flight deck controls must be designed to the resultant limit loads, except that the parts of the control system where loads are eventually reacted by the pilot need not exceed:

(i) The loads corresponding to the maximum pilot loads in § 25.397(c) for each pilot alone; or

(ii) 0.75 times these maximum loads for each pilot when the pilot forces are applied in the same direction.

■ 13. Revise 25.1517 to read as follows:

§ 25.1517 Rough air speed, V_{RA}.

(a) A rough air speed, V_{RA}, for use as the recommended turbulence penetration airspeed, and a rough air Mach number, M_{RA}, for use as the recommended turbulence penetration Mach number, must be established. V_{RA}/M_{RA} must be sufficiently less than V_{MO}/M_{MO} to ensure that likely speed variation during rough air encounters will not cause the overspeed warning to operate too frequently.

(b) At altitudes where V_{MO} is not limited by Mach number, in the absence of a rational investigation substantiating the use of other values, V_{RA} must be less than V_{MO}—35 KTAS.

(c) At altitudes where V_{MO} is limited by Mach number, M_{RA} may be chosen to provide an optimum margin between low and high speed buffet boundaries.

Appendix G to Part 25 [Removed and Reserved]

■ 14. Remove and reserve appendix G to part 25.

Issued under authority provided by 49 U.S.C. 106(f) and 44701(a) in Washington, DC, on November 14, 2014.

Michael P. Huerta,

Administrator.

[FR Doc. 2014–28938 Filed 12–10–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. FAA–2014–0668; Special Conditions No. 25–572–SC]

Special Conditions: AAR Engineering Services, Boeing 757–200 Series Airplane; Seats With Non-Traditional, Large, Non-Metallic Panels

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special condition; request for comments.

SUMMARY: These special conditions are issued for the Boeing 757–200 series airplane. This airplane, as modified by AAR Engineering Services, will have novel or unusual design features when compared to the state of technology envisioned in the airworthiness standards for transport-category airplanes. This design feature includes seats with non-traditional, large, non-metallic panels on Boeing 757–200 series airplanes. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for this design feature. These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

DATES: This action is effective on AAR Engineering Services on December 11, 2014. We must receive your comments by January 26, 2015.

ADDRESSES: Send comments identified by docket number FAA–2014–0668 using any of the following methods:

- *Federal eRegulations Portal:* Go to *http://www.regulations.gov/* and follow the online instructions for sending your comments electronically.
- *Mail:* Send comments to Docket Operations, M–30, U.S. Department of Transportation (DOT), 1200 New Jersey Avenue SE., Room W12–140, West Building Ground Floor, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* Take comments to Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 8 a.m. and 5 p.m., Monday through Friday, except federal holidays.
- *Fax:* Fax comments to Docket Operations at 202–493–2251.

Privacy: The FAA will post all comments it receives, without change, to *http://www.regulations.gov/,* including any personal information the commenter provides. Using the search

function of the docket Web site, anyone can find and read the electronic form of all comments received into any FAA docket, including the name of the individual sending the comment (or signing the comment for an association, business, labor union, etc.). DOT's complete Privacy Act Statement can be found in the **Federal Register** published on April 11, 2000 (65 FR 19477–19478), as well as at *http://DocketsInfo.dot.gov/.*

Docket: Background documents or comments received may be read at *http://www.regulations.gov/* at any time. Follow the online instructions for accessing the docket or go to the Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except federal holidays.

FOR FURTHER INFORMATION CONTACT: John Shelden, FAA, Airframe and Cabin Safety Branch, ANM–115, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue SW., Renton, Washington 98057–3356; telephone 425–227–2785; facsimile 425–227–1320.

SUPPLEMENTARY INFORMATION: The FAA has determined that notice of, and opportunity for prior public comment on, these special conditions are impracticable because these procedures would significantly delay issuance of the design approval and thus delivery of the affected aircraft. In addition, the substance of these special conditions has been subject to the public-comment process in several prior instances with no substantive comments received. The FAA therefore finds that good cause exists for making these special conditions effective upon publication in the **Federal Register**.

Comments Invited

We invite interested people to take part in this rulemaking by sending written comments, data, or views. The most helpful comments reference a specific portion of the special conditions, explain the reason for any recommended change, and include supporting data.

We will consider all comments we receive on or before the closing date for comments. We may change these special conditions based on the comments we receive.

Background

On May 28, 2014, AAR Engineering Services applied for a supplemental type certificate for an interior reconfiguration that includes seats containing non-traditional, large, non-metallic panels on Boeing 757–200 series airplanes. The Boeing Model 757–200 series airplane, currently approved under Type Certificate No. A2NM, is a swept-wing, conventional-tail, twin-engine, turbofan-powered, single-aisle, medium-sized transport-category airplane.

The applicable regulations to airplanes currently approved under Type Certificate No. A2NM do not require seats to meet the more-stringent flammability standards required of large, non-metallic panels in the cabin interior. At the time the applicable rules were written, seats were designed with a metal frame covered by fabric, not with large, non-metallic panels. Seats also met the then-recently adopted standards for flammability of seat cushions. With the seat design being mostly fabric and metal, their contribution to a fire in the cabin had been minimized and was not considered a threat. For these reasons, seats did not need to be tested to heat-release and smoke-emission requirements.

Seat designs have now evolved to occasionally include large, non-traditional, non-metallic panels. Taken in total, the surface area of these panels is on the same order as the sidewall and overhead-stowage-bin interior panels. To provide the level of passenger protection established by the airworthiness standards, these large, non-traditional, non-metallic panels in the cabin must meet the standards of Title 14, Code of Federal Regulations (CFR) part 25, Appendix F, parts IV and V, heat-release and smoke-emission requirements.

Type Certification Basis

Under the provisions of § 21.101, AAR Engineering Services must show that the Boeing Model 757–200, as changed, continues to meet the applicable provisions of the regulations listed in Type Certificate No. A2NM, or the applicable regulations in effect on the date of application for the change, except for earlier amendments as agreed upon by the FAA.

The regulations incorporated by reference in the type certificate are commonly referred to as the ''original type-certification basis.'' The regulations incorporated by reference in A2NM are as follows:

Part 25, as amended by Amendment 25–1 through Amendment 25–45. In addition, an equivalent safety finding exists with respect to § 25.853(c), Compartment interiors.

In addition, the certification basis includes certain special conditions, exemptions, or later amended sections of the applicable part that are not relevant to these special conditions.

If the Administrator finds that the applicable airworthiness regulations (*e.g.,* 14 CFR part 25) do not contain adequate or appropriate safety standards for the Boeing 757–200 series airplane because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16.

Special conditions are initially applicable to the model for which they are issued. Should the applicant apply for a supplemental type certificate to modify any other model included on the same type certificate to incorporate the same or similar novel or unusual design feature, these special conditions would also apply to the other model under § 21.101.

In addition to the applicable airworthiness regulations and special conditions, the Boeing 757–200 series airplane must comply with the fuel-vent and exhaust-emission requirements of 14 CFR part 34, and the noise-certification requirements of 14 CFR part 36.

The FAA issues special conditions, as defined in 14 CFR 11.19, in accordance with § 11.38, and they become part of the type-certification basis under § 21.101.

Novel or Unusual Design Features

The Boeing 757–200 series airplane will incorporate the following novel or unusual design feature:

These models offer interior arrangements that include passenger seats that incorporate large, non-traditional, non-metallic panels in lieu of the traditional metal frame covered by fabric. The flammability properties of these panels have been shown to significantly affect the survivability of cabin occupants in the event of fire. These seats are considered a novel design for transport-category airplanes that include Amendment 25–61 and Amendment 25–66 in the certification basis, and were not considered when those airworthiness standards were established.

The existing regulations do not provide adequate or appropriate safety standards for seat designs that incorporate large, non-traditional, non-metallic panels in their designs. To provide a level of safety that is equivalent to that afforded to the balance of the cabin, additional airworthiness standards, in the form of special conditions, are necessary. These special conditions supplement § 25.853. The requirements contained in these special conditions consist of applying the identical test conditions, required of all other large panels in the cabin, to

seats with large, non-traditional, non-metallic panels.

Discussion

In the early 1980s, the Federal Aviation Administration (FAA) conducted extensive research on the effects of post-crash flammability in the passenger cabin. As a result of this research and service experience, the FAA adopted new standards for interior surfaces associated with larger surface-area parts. Specifically, the rules require measurement of heat release and smoke emission (part 25, Appendix F, parts IV and V) for the affected parts. Heat release has been shown to have a direct correlation to post-crash fire-survival time. The materials that comply with the standards (*e.g.,* § 25.853, ''Compartment Interiors,'' as amended by Amendments 25–61 and 25–66) were found to extend survival time by approximately two minutes over materials that do not comply.

At the time Amendment 25–61 was written, the potential application of the requirement to seats was explored. The seat frame itself was not a concern because it was primarily made of aluminum and incorporated only small amounts of non-metallic materials (for example, a food-tray table and armrest closeout). The FAA determined that the overall effect on survivability was negligible, whether or not these panels met the heat-release and smoke-emission requirements. The requirements therefore did not address seats, and the preambles to both Notice of Proposed Rule Making (NPRM) 85–10 and the final rule (Amendment 25–61) specifically note that they were excluded ''. . . because the recently adopted standards for flammability of seat cushions will greatly inhibit involvement of the seats'' in their post-crash fire.

In the late 1990s, when it became clear that seat designs were evolving to include large non-metallic panels with surface area that would impact survivability during a cabin-fire event compared to partitions or galleys, the FAA issued Policy Memorandum 97–112–39. This memo noted that large surface-area panels must comply with heat-release and smoke-emission requirements, even if they were attached to a seat. If the FAA had not issued such policy, seat designs would have been an exception to the airworthiness standards, which could result in an unacceptable decrease in survivability during a cabin-fire event.

Definition of ''Large, Non-Traditional, Non-Metallic panel''

A large, non-traditional panel, in this case, is defined as a panel with exposed-surface areas greater than 1.5 square feet installed per seat place. The panel may consist of either a single component or multiple components in a concentrated area. Examples of non-traditional areas include, but are not limited to, seat backs, bottoms and leg/foot rests, kick panels, back shells, and associated furniture. Examples of traditional, exempted areas include, but are not limited to, arm caps, armrest close-outs, and items such as end-bays and center consoles, food trays, video monitors, and shrouds.

Clarification of ''Exposed''

''Exposed'' is considered to include those panels directly exposed to the passenger cabin in the traditional sense, plus those panels enveloped, such as by a dress cover. Traditional fabrics or leathers currently used on seats are excluded from the special conditions. These materials must still comply with § 25.853(a) and (c) if used as a covering for a seat cushion, or § 25.853(a) if installed elsewhere on the seat. Large, non-metallic panels covered with traditional fabrics or leathers will be tested without their coverings or covering attachments.

Due to the way the aircraft industry manufactures seats and airplanes, the FAA recognizes that seat procurement is a long lead-time process. The FAA also recognizes that airplane operators value fleet commonality when buying airplane seats. However, special conditions, by definition, apply to the novel product and become effective on or shortly after their **Federal Register** publication date. The FAA has determined the applicability of these special conditions to be focused on new-seat certification programs. Because of the unique nature of the seats with non-traditional, large, non-metallic panels, the FAA has developed a unique definition of ''new-seat certification program'' and of ''previously certified.'' This latter definition is unique because it has to be made at the seat type-design level, not at the aircraft type-design level.

In the context of this special condition only, not to be extended to other areas of aircraft certification for the reasons stated above, the FAA defines ''new seat certification program'' and ''previously certified'' as follows:

New-Seat Certification Program

Seats presented for new-installation certification, and that are newly designed and manufactured, must comply with the special conditions. Any modification (change) to an existing or new non-traditional large non-metallic panel on a seat would be considered a new program, and all non-traditional panels on the seat would need to comply with the special conditions.

Previously Certified

Seats that have previously been designed, manufactured, and are in service or presented to go into service would not have to comply with this special condition, unless the large panels were being modified.

Applicability

As discussed above, these special conditions are applicable to the Boeing 757–200 series airplane as modified by AAR Aircraft Services. Should AAR Aircraft Services apply at a later date for a supplemental type certificate to modify any other model included on Type Certificate No. A2NM to incorporate the same novel or unusual design feature, these special conditions would apply to that model as well.

Conclusion

This action affects only certain novel or unusual design features on one model of airplane. It is not a rule of general applicability and affects only the applicant who applied to the FAA for approval of these features on the airplane.

The substance of these special conditions has been subjected to the notice and comment period in several prior instances and has been derived without substantive change from those previously issued. It is unlikely that prior public comment would result in a significant change from the substance contained herein. Therefore, because a delay would significantly affect the certification of the airplane, the FAA has determined that prior public notice and comment are unnecessary and impracticable, and good cause exists for adopting these special conditions upon publication in the **Federal Register**. The FAA is requesting comments to allow interested persons to submit views that may not have been submitted in response to the prior opportunities for comment described above.

List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

The authority citation for these special conditions is as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701, 44702, 44704.

The Special Conditions

Accordingly, pursuant to the authority delegated to me by the Administrator, the following special conditions are issued as part of the type-certification basis for Boeing Model 757–200 airplanes modified by AAR Engineering Services:

1. Compliance with 14 CFR part 25, Appendix F, parts IV and V, heat release and smoke emission, is required for seats that incorporate large, non-traditional, non-metallic panels that may either be a single component or multiple components in a concentrated area in their design.

2. The applicant may designate up to and including 1.5 square feet of non-traditional, non-metallic panel material per seat place that does not have to comply with No. 1. A triple seat assembly may have a total of 4.5 square feet excluded on any portion of the assembly (*e.g.,* outboard seat place 1 sq. ft., middle 1 sq. ft., and inboard 2.5 sq. ft.).

3. Seats need not meet the test requirements of part 25 Appendix F, parts IV and V when installed in compartments that are not otherwise required to meet these requirements. Examples include:

a. Airplanes with passenger capacities of 19 or fewer.

b. Airplanes that do not have smoke emission and heat release in their certification basis and do not need to comply with the requirements of 14 CFR 121.312.

c. Airplanes exempted from heat-release and smoke-emission requirements.

4. Only airplanes associated with new-seat certification programs approved after the effective date of these special conditions will be affected by the requirements in these special conditions. Previously certificated interiors on the existing airplane fleet and follow-on deliveries of airplanes with previously certificated interiors are not affected.

Issued in Renton, Washington, on November 13, 2014.

Jeffrey E. Duven,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2014–29029 Filed 12–10–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 95

[Docket No. 30994; Amdt. No. 517]

IFR Altitudes; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts miscellaneous amendments to the required IFR (instrument flight rules) altitudes and changeover points for certain Federal airways, jet routes, or direct routes for which a minimum or maximum en route authorized IFR altitude is prescribed. This regulatory action is needed because of changes occurring in the National Airspace System. These changes are designed to provide for the safe and efficient use of the navigable airspace under instrument conditions in the affected areas.

DATES: *Effective Date:* 0901 UTC, January 8, 2015.

FOR FURTHER INFORMATION CONTACT: Harry Hodges, Flight Procedure Standards Branch (AMCAFS–420), Flight Technologies and Programs Division, Flight Standards Service, Federal Aviation Administration, Mike Monroney Aeronautical Center, 6500 South MacArthur Blvd., Oklahoma City, OK 73169 (Mail Address: P.O. Box 25082, Oklahoma City, OK 73125) telephone: (405) 954–4164.

SUPPLEMENTARY INFORMATION: This amendment to part 95 of the Federal Aviation Regulations (14 CFR part 95) amends, suspends, or revokes IFR altitudes governing the operation of all aircraft in flight over a specified route or any portion of that route, as well as the changeover points (COPs) for Federal airways, jet routes, or direct routes as prescribed in part 95.

The Rule

The specified IFR altitudes, when used in conjunction with the prescribed changeover points for those routes, ensure navigation aid coverage that is adequate for safe flight operations and free of frequency interference. The reasons and circumstances that create the need for this amendment involve matters of flight safety and operational efficiency in the National Airspace System, are related to published aeronautical charts that are essential to the user, and provide for the safe and efficient use of the navigable airspace. In addition, those various reasons or circumstances require making this amendment effective before the next scheduled charting and publication date of the flight information to assure its timely availability to the user. The effective date of this amendment reflects those considerations. In view of the close and immediate relationship between these regulatory changes and safety in air commerce, I find that notice and public procedure before adopting this amendment are impracticable and contrary to the public interest and that good cause exists for making the amendment effective in less than 30 days.

Conclusion

The FAA has determined that this 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. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 95

Airspace, Navigation (air).

Issued in Washington, DC, on December 5, 2014.

John Duncan,

Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, part 95 of the Federal Aviation Regulations (14 CFR part 95) is amended as follows effective at 0901 UTC, January 8, 2015.

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

Authority: 49 U.S.C. 106(g), 40103, 40106, 40113, 40114, 40120, 44502, 44514, 44719, 44721.

■ 2. Part 95 is amended to read as follows:

REVISIONS TO IFR ALTITUDES AND CHANGEOVER POINTS

[Amendment 517 effective date January 8, 2015]

From	To	MEA
§ 95.6001 Victor Routes—U.S.		
§ 95.6015 VOR Federal Airway V15 Is Amended To Read in Part		
SATTY, TX FIX	WACO, TX VORTAC	2400
§ 95.6029 VOR Federal Airway V29 Is Amended To Read in Part		
SMYRNA, DE VORTAC	DUPONT, DE VORTAC	#1800
#DUPONT R–181 UNUSABLE BELOW 10000 USE SMYRNA R–360		
§ 95.6104 VOR Federal Airway V104 Is Amended To Delete		
U.S. CANADIAN BORDER	*MASSENA, NY VORTAC	*2100
*1600—MOCA		
MASSENA, NY VORTAC	MALAE, NY FIX	#*3500
*2700—MOCA		
#GNSS MEA ONLY		
MASSENA R–119 UNUSABLE. GNSS REQUIRED		
MALAE, NY FIX	*PLATTSBURGH, NY VORTAC	**7000
*4600—MCA PLATTSBURGH, NY VORTAC, NW BND		
**6100—MOCA		
**6100—GNSS MEA		
PLATTSBURGH, NY VORTAC	*BURLINGTON, VT VOR/DME	2600
§ 95.6166 VOR Federal Airway V166 Is Amended To Read in Part		
BRIEF, NJ FIX	SEA ISLE, NJ VORTAC	3000
§ 95.6210 VOR Federal Airway V210 Is Amended To Read in Part		
WILL ROGERS, OK VORTAC	MINGG, OK FIX	*4000
*3100—MOCA		
MINGG, OK FIX	OKMULGEE, OK VOR/DME	*4000
*2600—MOCA		
§ 95.6267 VOR Federal Airway V267 Is Amended To Read in Part		
FORMS, NC FIX	*KNITS, TN FIX	7500
*6200—MCA KNITS, TN FIX, S BND		
§ 95.6272 VOR Federal Airway V272 Is Amended To Read in Part		
*BRISC, TX FIX	SAYRE, OK VORTAC	**5500
*7000—MRA		
**4500—MOCA		
SERTS, OK FIX	LIONS, OK FIX	*4500
*3100—MOCA		
*3700—GNSS MEA		
WILL ROGERS, OK VORTAC	MINGG, OK FIX	*4000
*3100—MOCA		
HOLLE, OK FIX	MC ALESTER, OK VORTAC	3000
§ 95.6402 VOR Federal Airway V402 Is Amended To Read in Part		
*BRISC, TX FIX	MITBEE, OK VORTAC	**5500
*7000—MRA		
**4500—MOCA		
§ 95.6440 VOR Federal Airway V440 Is Amended To Read in Part		
*BRISC, TX FIX	SAYRE, OK VORTAC	**5500
*7000—MRA		
**4500—MOCA		
§ 95.6491 VOR Federal Airway V491 Is Amended To Read in Part		
RAPID CITY, SD VORTAC	BFFLO, SD FIX	5000
BFFLO, SD FIX	HAYNI, ND FIX	*9000
*5000—MOCA		

REVISIONS TO IFR ALTITUDES AND CHANGEOVER POINTS—Continued

[Amendment 517 effective date January 8, 2015]

From	To	MEA
HAYNI, ND FIX *4500—MOCA	DICKINSON, ND VORTAC	*5000
§ 95.6605 VOR Federal Airway V605 Is Amended To Read in Part		
SPARTANBURG, SC VORTAC *15000—MRA **4600—MOCA **5000—GNSS MEA	*GENOD, NC FIX	**15000

Airway Segment		Changeover	
From	To	Distance	From
§ 95.8003 VOR Federal Airway Changeover Points			
V166 Is Amended To Add Changeover Point			
WOODSTOWN, NJ VORTAC WOODSTOWN	SEA ISLE, NJ VORTAC	28	
V272 Is Amended To Add Changeover Point			
SAYRE, OK VORTAC	WILL ROGERS, OK VORTAC	40	SAYRE

[FR Doc. 2014–29074 Filed 12–10–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2014–1007]

Drawbridge Operation Regulation; Arkansas River, Pine Bluff, AR

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 Rob Roy Railroad Drawbridge across the Arkansas River, mile 64.7, at Pine Bluff, Arkansas. The deviation is necessary to allow the bridge owner to install a new generator and motor that are essential to the continued safe operation of the drawbridge. This deviation allows the bridge to remain in the closed-to-navigation position and not open to vessel traffic.

DATES: This deviation is effective without actual notice from December 11, 2014 through January 21, 2015. For the purposes of enforcement, actual notice will be used from November 24, 2014, until December 11, 2014.

ADDRESSES: The docket for this deviation, [USCG–2014–1007] 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 Eric A. Washburn, Bridge Administrator, Western Rivers, Coast Guard; telephone 314–269–2378, email *Eric.Washburn@uscg.mil.* If you have questions on viewing the docket, call Cheryl F. Collins, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION: The Canadian Pacific Railroad requested a temporary deviation for the Rob Roy Railroad Drawbridge, across the Arkansas River, mile 64.7, at Pine Bluff, Arkansas to remain in the closed-to-navigation position during specific dates and times occurring between November 24, 2014 and January 21, 2015. The scheduled closures during this temporary deviation are as follows:

November 24th, 2014 from 8 a.m. to 4 p.m., one 8-hour closure;

December 15–23, 2014, 2 two-hour closures each day;

December 30, 2014 to January 5, 2015, 2 two-hour closures each day;

From 7 a.m., January 6 to 7 a.m., January 8, 2015; one 48-hour closure;

January 8–12, 2015, 2 two-hour daily closures each day; and

January 13–21, 2015, 2 two-hour closures each day.

These closures are necessary to install a new generator and motor. 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.

The Rob Roy Railroad Drawbridge currently operates in accordance with 33 CFR 117.5, which states the general requirement that drawbridge shall open promptly and fully for the passage of vessels when a request to open is given in accordance with the subpart.

There are no alternate routes for vessels transiting this section of the Arkansas River.

The Rob Roy Railroad Drawbridge, in the closed-to-navigation position, provides a vertical clearance of 17.6 feet above normal pool. Navigation on the waterway consists primarily of commercial tows and recreational watercraft and will not be significantly impacted. This temporary deviation has been coordinated with waterway users. No objections were received.

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: November 20, 2014.

Eric A. Washburn,

Bridge Administrator, Western Rivers.

[FR Doc. 2014–29116 Filed 12–10–14; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[EPA–HQ–SFUND–1983–0002; FRL–9920–32–Region–5]

National Oil and Hazardous Substance Pollution Contingency Plan; National Priorities List: Deletion of the Belvidere Municipal Landfill Superfund Site

AGENCY: U.S. Environmental Protection Agency.

ACTION: Direct final rule.

SUMMARY: The U.S. Environmental Protection Agency (EPA) Region 5 is publishing a direct final Notice of Deletion of the Belvidere Municipal Landfill Superfund Site (Site), located in Belvidere, Illinois, from the National Priorities List (NPL). The NPL, promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended, is appendix B to the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). This direct final deletion is being published by EPA with the concurrence of the State of Illinois, through the Illinois Environmental Protection Agency (IEPA), because EPA has determined that all appropriate response actions under CERCLA, other than operation, maintenance, and five-year reviews, have been completed. However, this deletion does not preclude future actions under Superfund.

DATES: This direct final deletion is effective February 9, 2015 unless EPA receives adverse comments by January 12, 2015. If adverse comments are received, EPA will publish a timely withdrawal of the direct final deletion in the **Federal Register** informing the public that the deletion will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID no. EPA–HQ–SFUND–1983–0002, by one of the following methods:

- *http://www.regulations.gov:* Follow on-line instructions for submitting comments.
- *Email:* Thomas Smith, Remedial Project Manager, at *smith.thomasl@epa.gov* or Janet Pope, Community Involvement Coordinator, at *pope.janet@epa.gov.*
- *Fax:* Gladys Beard at (312) 886–4071.
- *Mail:* Thomas Smith, Remedial Project Manager, U.S. Environmental Protection Agency (SR–6J), 77 W. Jackson, Chicago, IL 60604, (312) 886–6540 or Janet Pope, Community Involvement Coordinator, U.S. Environmental Protection Agency (SI–7J), 77 W. Jackson, Chicago, IL 60604, (312) 353–0628 or 1–800–621–8431.
- *Hand delivery:* Janet Pope, Community Involvement Coordinator, U.S. Environmental Protection Agency (SI–7J), 77 W. Jackson Boulevard, Chicago, IL 60604. Such deliveries are only accepted during the docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID no. EPA–HQ–SFUND–1983–0002. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or email. The *http://www.regulations.gov* Web site is an ''anonymous access'' system, which means 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 *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, 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 *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 the hard copy. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy at:

- U.S. Environmental Protection Agency, Region 5, 77 W. Jackson Blvd., Chicago, IL 60604, Phone: (312) 353–1063, Hours: Monday through Friday, 8:30 a.m. to 4:30 p.m. CST, excluding Federal holidays.
- Ida Public Library, 320 N. State St., Belvidere, IL 61008, Phone: (815) 544–3838, Hours: Monday through Friday 9:00 a.m. to 8:00 p.m. CST, and Saturday 9:00 a.m. to 6:00 p.m. CST.

FOR FURTHER INFORMATION CONTACT: Thomas Smith, Remedial Project Manager, U.S. Environmental Protection Agency, Region 5, SR–6J, 77 W. Jackson, Chicago, IL 60604, (312) 886–6540, *smith.thomasl@epa.gov.*

SUPPLEMENTARY INFORMATION:

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I. Introduction
II. NPL Deletion Criteria
III. Deletion Procedures
IV. Basis for Site Deletion
V. Deletion Action

I. Introduction

EPA is publishing this direct final Notice of Deletion of the Belvidere Municipal Landfill Site (Site) from the NPL and requests comments on this proposed action. The NPL constitutes Appendix B of 40 CFR part 300, which is the Oil and Hazardous Substances Pollution Contingency Plan (NCP), which EPA promulgated pursuant to section 105 of CERCLA, as amended. EPA maintains the NPL as the list of sites that appear to present a significant risk to public health, welfare, or the environment. Sites on the NPL may be the subject of Remedial Actions (RAs) financed by the Hazardous Substance Superfund (Fund). As described in 300.425(e) (3) of the NCP, sites deleted from the NPL remain eligible for Fund-financed RAs if future conditions warrant such actions.

Because EPA considers this action to be noncontroversial and routine, this action will be effective *February 9, 2015* unless EPA receives adverse comments by *January 12, 2015.* Along with this direct final Notice of Deletion, EPA is co-publishing a Notice of Intent to

Delete in the ''Proposed Rules'' section of the **Federal Register**. If adverse comments are received within the 30-day public comment period on this deletion action, EPA will publish a timely withdrawal of this direct final Notice of Deletion before the effective date of the deletion, and the deletion will not take effect. EPA will, as appropriate, prepare a response to comments and continue with the deletion process on the basis of the Notice of Intent to Delete and the comments already received. There will be no additional opportunity to comment.

Section II of this document explains the criteria for deleting sites from the NPL. Section III discusses procedures that EPA is using for this action. Section IV discusses the Site and demonstrates how it meets the deletion criteria. Section V discusses EPA's action to delete the Site from the NPL unless adverse comments are received during the public comment period.

II. NPL Deletion Criteria

The NCP establishes the criteria that EPA uses to delete sites from the NPL. In accordance with 40 CFR 300.425(e), sites may be deleted from the NPL where no further response is appropriate. In making such a determination pursuant to 40 CFR 300.425(e), EPA will consider, in consultation with the state, whether any of the following criteria have been met:

i. Responsible parties or other persons have implemented all appropriate response actions required;

ii. All appropriate Fund-financed response under CERCLA has been implemented, and no further response action by responsible parties is appropriate; or

iii. The remedial investigation has shown that the release poses no significant threat to public health or the environment and, therefore, the taking of remedial measures is not appropriate.

Pursuant to CERCLA section 121(c) and the NCP, EPA conducts five-year reviews to ensure the continued protectiveness of RAs where hazardous substances, pollutants, or contaminants remain at a site above levels that allow for unlimited use and unrestricted exposure. EPA conducts such five-year reviews even if a site is deleted from the NPL. EPA may initiate further action to ensure continued protectiveness at a deleted site if new information becomes available that indicates it is appropriate. Whenever there is a significant release from a site deleted from the NPL, the deleted site may be restored to the NPL without application of the hazard ranking system.

III. Deletion Procedures

The following procedures apply to deletion of the Site:

(1) EPA consulted with the State of Illinois prior to developing this direct final Notice of Deletion and the Notice of Intent to Delete co-published today in the ''Proposed Rules'' section of the **Federal Register**.

(2) EPA has provided the State 30 working days for review of this notice and the parallel Notice of Intent to Delete prior to their publication today, and the State, through IEPA, has concurred on the deletion of the Site from the NPL.

(3) Concurrently with the publication of this direct final Notice of Deletion, a notice of the availability of the parallel Notice of Intent to Delete is being published in a major local newspaper, The Rockford Register Star News-Dispatch. The newspaper notice announces the 30-day public comment period concerning the Notice of Intent to Delete the Site from the NPL.

(4) The EPA placed copies of documents supporting the proposed deletion in the deletion docket and made these items available for public inspection and copying at the Site information repositories identified above.

(5) If adverse comments are received within the 30-day public comment period on this deletion action, EPA will publish a timely notice of withdrawal of this direct final Notice of Deletion before its effective date and will prepare a response to comments and continue with the deletion process on the basis of the Notice of Intent to Delete and the comments already received.

Deletion of a site from the NPL does not itself create, alter, or revoke any individual's rights or obligations. Deletion of a site from the NPL does not in any way alter EPA's right to take enforcement actions, as appropriate. The NPL is designed primarily for informational purposes and to assist EPA management. Section 300.425(e)(3) of the NCP states that the deletion of a site from the NPL does not preclude eligibility for future response actions, should future conditions warrant such actions.

IV. Basis for Site Deletion

The following information provides EPA's rationale for deleting the Belvidere Municipal Landfill Site from the NPL. A Final Close-Out Report was completed on February 06, 2014, which concluded that the Site achieved the degree of cleanup or protection specified in the ROD(s) for all pathways of exposure. All selected remedial and removal actions, remedial action objectives (RAOs), and associated cleanup goals are consistent with Agency policy and guidance. No further Superfund response is needed to protect human health and the environment.

Site Background and History

Site Location

The EPA ID# for the Site is ILD980497663. It is located on the west side of the City of Belvidere (City), Illinois, and occupies approximately 19 acres of a 139-acre site. The Record of Decision (ROD) and Consent Decree (CD) describe the Site as including all 139 acres, because the contaminated groundwater was discovered in the area between the landfill and the river. The former landfill, situated on property owned by the Boone County Conservation District (BCCD), is bordered by the Kishwaukee River to the west, Spencer Park to the south, a gravel pit to the north, and Appleton Road to the east. Two flooded and abandoned sand and gravel pits are located on the east side of the former landfill facility and are referred to as the West Pond and the East Pond. The only residential development in the area is a small trailer park approximately one mile west of the Site. The former drum disposal area is located immediately northwest of the former landfill. Portions of the Site are located within the 100-year flood plain of the Kishwaukee River.

Site History

The Site was owned and operated by the City from 1939 to 1965 as a municipal landfill. They disposed of waste in an old gravel pit. From 1965 to 1973, the City retained ownership while private contractors operated the landfill. In 1970's, inspection reports by IEPA personnel indicated that special wastes and some hazardous waste had been disposed of in the unpermitted landfill. The landfill was covered with sandy soil from an on-site borrow pit and soil remaining from highway construction. In 1976, the BCCD purchased the property to develop an experimental prairie and recreational area.

In 1979, the IEPA compliant landfill cover was installed over the Site and then vegetated with native prairie plants. However, in 1981, a hydrogeological investigation by IEPA found that the final cover remained inadequate in some areas and that leachate posed a threat to surface and ground water. The Site was proposed to EPA's National Priorities List (NPL) (47 FR 58476) in 1982 and listed in September 1993 (48 FR 40658).

Remedial Investigation and Feasibility Study (RI/FS)

Between 1984 and 1988, IEPA conducted a Remedial Investigation/Feasibility Study (RI/FS) at the Site. The results of the RI determined that there was low-level contamination in the pond and river sediments, and higher levels of contamination in the groundwater and surface soils. About 100 full or partially full drums were discovered in an area immediately west of the landfill. Due to the potential hazards associated with the drums, EPA disposed of the drums off-site in December of 1986.

EPA release the Proposed Plan for public comment in May of 1988. The EPA communicated to the public that remedial action was necessary to mitigate risks associated with Polychlorinated Biphenyls (PCBs) and semi-volatile organic compounds (SVOCs) contaminated soils and groundwater.

Record of Decision Findings

EPA signed a Record of Decision (ROD) on June 29, 1988. The ROD documented EPA's decision to clean up the Site. The remedy included a RCRA Subtitle C landfill cap; plume barrier groundwater extraction system (PBGES); removal of PCB-contaminated soil from the drum disposal area; deed restrictions; flood protection; site fencing; and monitoring. The RAOs include: (1) Minimizing risk to public health and the environment from direct contact with contaminated material; (2) controlling the migration of contaminated material to surface waters; (3) controlling migration of leachate to groundwater via infiltration; and (4) minimizing potential risk to public health from future consumption of contaminated groundwater.

Response Actions

Soil samples from the Remedial Design (RD) indicated that PCB concentrations in the drum disposal area were less than 50 ppm with only one sample containing more than 10 ppm. EPA excavated contaminated soil to a depth of one foot in and around the former drum disposal area, installed monitoring wells, a flood protection berm, an access road and a security fence around the landfill. Excavated soil was consolidated on the Site and covered with a six-foot RCRA Subtitle C landfill cap, which consisted of a leveling layer, low permeability layer, drainage layer, vegetative cover, and a gas venting system. EPA constructed a Plume Barrier Groundwater Extraction System (PBGES) down-gradient of the landfill to intercept groundwater between the landfill and the Kishwaukee River. It operated from 1991 to 1995 and consisted of a 1,200 foot long linear array of 40 extraction wells, a single suction pumping system, and a force main connection to the City sanitary sewer system. A restrictive covenant was recorded for the Site in 1991. The construction of the RA was officially completed May 29, 1992, and EPA issued a Preliminary Close-Out Report on June 6, 1992.

Cleanup Goals

Confirmatory sampling verified that the ROD cleanup objective for removal of PCB-contaminated soil and landfill consolidation has been met. The landfill cap material is in compliance with RCRA Subtitle C landfill closure requirements. These actions eliminate the direct contact risk to human health and the environment. The exposure to contaminated groundwater has been eliminated by past operation of the PBGES and the monitoring well data demonstrates groundwater containment verifying the protection of the Kishwaukee River and the downgradient aquifer. In 2011, the IEPA and the IDNR collected sediment, water, and fish samples from Deeppitt Pond. In April, 2013, IDNR reported that the sediment, water, and fish tissue results were below health based standards. Based on that data, BCCD now allows fishing in the Deeppit Pond. The Site remedy is protective of human health and the environment across all pathways of exposure because the Site meets the current protectiveness standards for groundwater and institutional controls are in place that restrict land and groundwater uses.

Operation and Maintenance (O&M)

The City is responsible for O&M activities. The PBGES was shut off in May 1995 because all target compound criteria were satisfied for three consecutive sampling events at compliance wells, however, the City will maintain the system until the Site is deleted from the NPL. The City is responsible to ensure groundwater use remains prohibited and that the Kishwaukee River is adequately protected. Ongoing sampling indicates no contamination in the river. The primary activities associated with O&M for the final cover system include: Routine landscape and monitoring equipment maintenance, security and access control, cover integrity surveys, and air monitoring.

Institutional Controls

A Restrictive Covenant Agreement was recorded in February 1991 to insure the integrity of the RA. The restrictions ''runs with the land'' and include prohibition of groundwater use and construction activities on the clay cap. The BCCD maintains ownership of the Site for use as a park and conservation purposes. In addition, Belvidere City Ordinance Code, Section 114–160 (1997) prohibits the construction, alteration, rebuilding, or restoration of private wells within city limits.

Five-Year Review

EPA has conducted four statutory five-year reviews (FYRs) under Section 121(c) of the CERCLA (1995, 2000, 2005, and 2010). The purpose of a statutory FYR is to evaluate whether a completed RA remains protective of human health and the environment at sites where hazardous waste remains on-site at levels that do not allow for unlimited use and unrestricted exposure. EPA concluded that all the RAs are in place and protective. The next FYR will be conducted in 2015.

Community Involvement

Public participation activities have been satisfied as required in CERCLA section 113(k), 42 U.S.C. 9613(k), and CERCLA section 117, 42 U.S.C. 9617. Documents in the deletion docket which EPA relied on for recommendation of the deletion of this Site from the NPL are available to the public in the information repositories, and at *www.regulations.gov.*

Determination That the Site Meets the Criteria for Deletion in the NCP

The NCP (40 CFR 300.425(e)) states that sites may be deleted from the NPL when no further response action is appropriate. EPA, in consultation with the State of Illinois, has determined that the responsible parties have implemented all response actions required.

V. Deletion Action

EPA, with concurrence of the State of Illinois through IEPA, has determined that all appropriate response actions under CERCLA, other than maintenance, monitoring, and five-year reviews have been completed. Therefore, EPA is deleting the Site from the NPL.

Because EPA considers this action to be noncontroversial and routine, EPA is taking it without prior publication. This action will be effective *February 9, 2015* unless EPA receives adverse comments by *January 12, 2015.* If adverse comments are received within the 30-

day public comment period, EPA will publish a timely withdrawal of this direct final notice of deletion before the effective date of the deletion, and it will not take effect. EPA will prepare a response to comments and continue with the deletion process on the basis of the Notice of Intent to Delete and the comments already received. There will be no additional opportunity to comment.

List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous waste, Hazardous substances, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

Dated: November 24, 2014.

Susan Hedman,

Regional Administrator, Region 5.

For the reasons set out in this document, 40 CFR part 300 is amended as follows:

PART 300—[AMENDED]

■ 1. The authority citation for part 300 continues to read as follows:

Authority: 33 U.S.C. 1321(c)(2); 42 U.S.C. 9601–9657; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; E.O. 12580, 52 FR 2923; 3 CFR, 1987 Comp., p. 193.

Appendix B—[Amended]

■ 2. Table 1 of Appendix B to part 300 is amended by removing ''Belvidere Municipal Landfill'', ''City of Belvidere, IL''.

[FR Doc. 2014–29032 Filed 12–10–14; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[EPA–HQ–SFUND–2014–0318; FRL–9920–06–OSWER]

National Priorities List

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (''CERCLA'' or ''the Act''), as amended, requires that the National Oil and Hazardous Substances Pollution Contingency Plan (''NCP'') include a list of national priorities among the known releases or threatened releases of hazardous substances, pollutants or contaminants throughout the United States. The National Priorities List (''NPL'') constitutes this list. The NPL is intended primarily to guide the Environmental Protection Agency (''the EPA'' or ''the agency'') in determining which sites warrant further investigation. These further investigations will allow the EPA to assess the nature and extent of public health and environmental risks associated with the site and to determine what CERCLA-financed remedial action(s), if any, may be appropriate. This rule adds one site, Colorado Smelter, to the General Superfund section of the NPL.

DATES: The document is effective on January 12, 2015.

ADDRESSES: Contact information for the EPA Headquarters and EPA Region 8 dockets:

- Docket Coordinator, Headquarters; U.S. Environmental Protection Agency; CERCLA Docket Office; 1301 Constitution Avenue NW.; William Jefferson Clinton Building West, Room 3334, Washington, DC 20004, 202/566–0276.
- Sabrina Forrest, Region 8 (CO, MT, ND, SD, UT, WY), U.S. EPA, 1595 Wynkoop Street, Mailcode 8EPR–B, Denver, CO 80202–1129; 303/312–6484.

FOR FURTHER INFORMATION CONTACT: Terry Jeng, phone: (703) 603–8852, email: *jeng.terry@epa.gov,* Site Assessment and Remedy Decisions Branch, Assessment and Remediation Division, Office of Superfund Remediation and Technology Innovation (Mailcode 5204P), U.S. Environmental Protection Agency; 1200 Pennsylvania Avenue NW., Washington, DC 20460; or the Superfund Hotline, phone (800) 424–9346 or (703) 412–9810 in the Washington, DC, metropolitan area.

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I. Background

A. What are CERCLA and SARA?

In 1980, Congress enacted the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. 9601–9675 (''CERCLA'' or ''the Act''), in response to the dangers of uncontrolled releases or threatened releases of hazardous substances, and releases or substantial threats of releases into the environment of any pollutant or contaminant that may present an imminent or substantial danger to the public health or welfare. CERCLA was amended on October 17, 1986, by the Superfund Amendments and Reauthorization Act (''SARA''), Public Law 99–499, 100 Stat. 1613 *et seq.*

B. What is the NCP?

To implement CERCLA, the EPA promulgated the revised National Oil and Hazardous Substances Pollution Contingency Plan (''NCP''), 40 CFR part 300, on July 16, 1982 (47 FR 31180), pursuant to CERCLA section 105 and Executive Order 12316 (46 FR 42237, August 20, 1981). The NCP sets guidelines and procedures for responding to releases and threatened releases of hazardous substances, or releases or substantial threats of releases

into the environment of any pollutant or contaminant that may present an imminent or substantial danger to the public health or welfare. The EPA has revised the NCP on several occasions. The most recent comprehensive revision was on March 8, 1990 (55 FR 8666).

As required under section 105(a)(8)(A) of CERCLA, the NCP also includes ''criteria for determining priorities among releases or threatened releases throughout the United States for the purpose of taking remedial action and, to the extent practicable, taking into account the potential urgency of such action, for the purpose of taking removal action.'' ''Removal'' actions are defined broadly and include a wide range of actions taken to study, clean up, prevent or otherwise address releases and threatened releases of hazardous substances, pollutants or contaminants (42 U.S.C. 9601(23)).

C. What is the National Priorities List (NPL)?

The NPL is a list of national priorities among the known or threatened releases of hazardous substances, pollutants or contaminants throughout the United States. The list, which is appendix B of the NCP (40 CFR part 300), was required under section 105(a)(8)(B) of CERCLA, as amended. Section 105(a)(8)(B) defines the NPL as a list of ''releases'' and the highest priority ''facilities'' and requires that the NPL be revised at least annually. The NPL is intended primarily to guide the EPA in determining which sites warrant further investigation to assess the nature and extent of public health and environmental risks associated with a release of hazardous substances, pollutants or contaminants. The NPL is of only limited significance, however, as it does not assign liability to any party or to the owner of any specific property. Also, placing a site on the NPL does not mean that any remedial or removal action necessarily need be taken.

For purposes of listing, the NPL includes two sections, one of sites that are generally evaluated and cleaned up by the EPA (the ''General Superfund section'') and one of sites that are owned or operated by other federal agencies (the ''Federal Facilities section''). With respect to sites in the Federal Facilities section, these sites are generally being addressed by other federal agencies. Under Executive Order 12580 (52 FR 2923, January 29, 1987) and CERCLA section 120, each federal agency is responsible for carrying out most response actions at facilities under its own jurisdiction, custody or control, although the EPA is responsible for preparing a Hazard Ranking System (''HRS'') score and determining whether the facility is placed on the NPL.

D. How are sites listed on the NPL?

There are three mechanisms for placing sites on the NPL for possible remedial action (see 40 CFR 300.425(c) of the NCP): (1) A site may be included on the NPL if it scores sufficiently high on the HRS, which the EPA promulgated as appendix A of the NCP (40 CFR part 300). The HRS serves as a screening tool to evaluate the relative potential of uncontrolled hazardous substances, pollutants or contaminants to pose a threat to human health or the environment. On December 14, 1990 (55 FR 51532), the EPA promulgated revisions to the HRS partly in response to CERCLA section 105(c), added by SARA. The revised HRS evaluates four pathways: ground water, surface water, soil exposure and air. As a matter of agency policy, those sites that score 28.50 or greater on the HRS are eligible for the NPL. (2) Pursuant to 42 U.S.C. 9605(a)(8)(B), each state may designate a single site as its top priority to be listed on the NPL, without any HRS score. This provision of CERCLA requires that, to the extent practicable, the NPL include one facility designated by each state as the greatest danger to public health, welfare or the environment among known facilities in the state. This mechanism for listing is set out in the NCP at 40 CFR 300.425(c)(2). (3) The third mechanism for listing, included in the NCP at 40 CFR 300.425(c)(3), allows certain sites to be listed without any HRS score, if all of the following conditions are met:

- The Agency for Toxic Substances and Disease Registry (ATSDR) of the U.S. Public Health Service has issued a health advisory that recommends dissociation of individuals from the release.
- The EPA determines that the release poses a significant threat to public health.
- The EPA anticipates that it will be more cost-effective to use its remedial authority than to use its removal authority to respond to the release.

The EPA promulgated an original NPL of 406 sites on September 8, 1983 (48 FR 40658) and generally has updated it at least annually.

E. What happens to sites on the NPL?

A site may undergo remedial action financed by the Trust Fund established under CERCLA (commonly referred to as the ''Superfund'') only after it is placed on the NPL, as provided in the NCP at 40 CFR 300.425(b)(1). (''Remedial actions'' are those ''consistent with a permanent remedy, taken instead of or in addition to removal actions. * * *'' 42 U.S.C. 9601(24).) However, under 40 CFR 300.425(b)(2), placing a site on the NPL ''does not imply that monies will be expended.'' The EPA may pursue other appropriate authorities to respond to the releases, including enforcement action under CERCLA and other laws.

F. Does the NPL define the boundaries of sites?

The NPL does not describe releases in precise geographical terms; it would be neither feasible nor consistent with the limited purpose of the NPL (to identify releases that are priorities for further evaluation), for it to do so. Indeed, the precise nature and extent of the site are typically not known at the time of listing.

Although a CERCLA ''facility'' is broadly defined to include any area where a hazardous substance has ''come to be located'' (CERCLA section 101(9)), the listing process itself is not intended to define or reflect the boundaries of such facilities or releases. Of course, HRS data (if the HRS is used to list a site) upon which the NPL placement was based will, to some extent, describe the release(s) at issue. That is, the NPL site would include all releases evaluated as part of that HRS analysis.

When a site is listed, the approach generally used to describe the relevant release(s) is to delineate a geographical area (usually the area within an installation or plant boundaries) and identify the site by reference to that area. However, the NPL site is not necessarily coextensive with the boundaries of the installation or plant, and the boundaries of the installation or plant are not necessarily the ''boundaries'' of the site. Rather, the site consists of all contaminated areas within the area used to identify the site, as well as any other location where that contamination has come to be located, or from where that contamination came.

In other words, while geographic terms are often used to designate the site (*e.g.,* the ''Jones Co. Plant site'') in terms of the property owned by a particular party, the site, properly understood, is not limited to that property (*e.g.,* it may extend beyond the property due to contaminant migration), and conversely may not occupy the full extent of the property (*e.g.,* where there are uncontaminated parts of the identified property, they may not be, strictly speaking, part of the ''site''). The ''site'' is thus neither equal to, nor confined by, the boundaries of any specific property that may give the site its name, and the name itself should not be read to imply that this site is coextensive with the

entire area within the property boundary of the installation or plant. In addition, the site name is merely used to help identify the geographic location of the contamination, and is not meant to constitute any determination of liability at a site. For example, the name ''Jones Co. plant site,'' does not imply that the Jones Company is responsible for the contamination located on the plant site.

EPA regulations provide that the remedial investigation (''RI'') ''is a process undertaken * * * to determine the nature and extent of the problem presented by the release'' as more information is developed on site contamination, and which is generally performed in an interactive fashion with the feasibility study (''FS'') (40 CFR 300.5). During the RI/FS process, the release may be found to be larger or smaller than was originally thought, as more is learned about the source(s) and the migration of the contamination. However, the HRS inquiry focuses on an evaluation of the threat posed and therefore the boundaries of the release need not be exactly defined. Moreover, it generally is impossible to discover the full extent of where the contamination ''has come to be located'' before all necessary studies and remedial work are completed at a site. Indeed, the known boundaries of the contamination can be expected to change over time. Thus, in most cases, it may be impossible to describe the boundaries of a release with absolute certainty.

Further, as noted above, NPL listing does not assign liability to any party or to the owner of any specific property. Thus, if a party does not believe it is liable for releases on discrete parcels of property, it can submit supporting information to the agency at any time after it receives notice it is a potentially responsible party.

For these reasons, the NPL need not be amended as further research reveals more information about the location of the contamination or release.

G. How are sites removed from the NPL?

The EPA may delete sites from the NPL where no further response is appropriate under Superfund, as explained in the NCP at 40 CFR 300.425(e). This section also provides that the EPA shall consult with states on proposed deletions and shall consider whether any of the following criteria have been met:

(i) Responsible parties or other persons have implemented all appropriate response actions required;

(ii) All appropriate Superfund-financed response has been implemented and no further response action is required; or

(iii) The remedial investigation has shown the release poses no significant threat to public health or the environment, and taking of remedial measures is not appropriate.

H. May the EPA delete portions of sites from the NPL as they are cleaned up?

In November 1995, the EPA initiated a policy to delete portions of NPL sites where cleanup is complete (60 FR 55465, November 1, 1995). Total site cleanup may take many years, while portions of the site may have been cleaned up and made available for productive use.

I. What is the construction completion list (CCL)?

The EPA also has developed an NPL construction completion list (''CCL'') to simplify its system of categorizing sites and to better communicate the successful completion of cleanup activities (58 FR 12142, March 2, 1993). Inclusion of a site on the CCL has no legal significance.

Sites qualify for the CCL when: (1) Any necessary physical construction is complete, whether or not final cleanup levels or other requirements have been achieved; (2) the EPA has determined that the response action should be limited to measures that do not involve construction (*e.g.,* institutional controls); or (3) the site qualifies for deletion from the NPL. For the most up-to-date information on the CCL, see the EPA's Internet site at *http://www.epa.gov/superfund/cleanup/ccl.htm.*

J. What is the Sitewide Ready for Anticipated Use measure?

The Sitewide Ready for Anticipated Use measure represents important Superfund accomplishments and the measure reflects the high priority the EPA places on considering anticipated future land use as part of the remedy selection process. See Guidance for Implementing the Sitewide Ready-for-Reuse Measure, May 24, 2006, OSWER 9365.0–36. This measure applies to final and deleted sites where construction is complete, all cleanup goals have been achieved, and all institutional or other controls are in place. The EPA has been successful on many occasions in carrying out remedial actions that ensure protectiveness of human health and the environment for current and future land uses, in a manner that allows contaminated properties to be restored to environmental and economic vitality. For further information, please go to *http://www.epa.gov/superfund/programs/recycle/pdf/sitewide_a.pdf.*

K. What is state/tribal correspondence concerning NPL listing?

In order to maintain close coordination with states and tribes in the NPL listing decision process, the EPA's policy is to determine the position of the states and tribes regarding sites that the EPA is considering for listing. This consultation process is outlined in two memoranda that can be found at the following Web site: *http://www.epa.gov/superfund/sites/npl/hrsres/policy/govlet.pdf.* The EPA has improved the transparency of the process by which state and tribal input is solicited. The EPA is using the Web and where appropriate more structured state and tribal correspondence that (1) explains the concerns at the site and the EPA's rationale for proceeding; (2) requests an explanation of how the state intends to address the site if placement on the NPL is not favored; and (3) emphasizes the transparent nature of the process by informing states that information on their responses will be publicly available.

A model letter and correspondence between the EPA and states and tribes where applicable, is available on the EPA's Web site at *http://www.epa.gov/superfund/sites/query/queryhtm/nplstcor.htm.*

II. Availability of Information to the Public

A. May I review the documents relevant to this final rule?

Yes, documents relating to the evaluation and scoring of the sites in this final rule are contained in dockets located both at the EPA Headquarters and in the EPA Region 8 office.

An electronic version of the public docket is available through *http://www.regulations.gov* (see table below for docket identification numbers). Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facilities identified below in section II D. Refer to docket identification number EPA–HQ–SFUND–2014–0318 for information regarding Colorado Smelter in Pueblo, CO.

B. What documents are available for review at the EPA headquarters docket?

The Headquarters docket for this rule contains the HRS score sheets, the documentation record describing the information used to compute the score and a list of documents referenced in

the documentation record. Because this site received comments during the comment period, the Headquarters docket also contains a support document that includes the EPA's responses to comments.

C. What documents are available for review at the EPA Region 8 docket?

The EPA Region 8 docket contains all the information in the Headquarters docket, plus the actual reference documents containing the data principally relied upon by the EPA in calculating or evaluating the HRS score. These reference documents are available only in the Region 8 docket. The Region 8 docket also contains the support document that includes the EPA's responses to comments.

D. How do I access the documents?

You may view the documents, by appointment only, after the publication of this rule. The hours of operation for the Headquarters docket are from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding federal holidays. Please contact the Region 8 docket for hours. For addresses for the Headquarters and Region 8 dockets, see **ADDRESSES** section in the beginning portion of this preamble.

E. How may I obtain a current list of NPL sites?

You may obtain a current list of NPL sites via the Internet at *http://www.epa.gov/superfund/sites/npl/index.htm* or by contacting the Superfund docket (see contact information in the beginning portion of this document).

III. Contents of This Final Rule

A. Addition to the NPL

This final rule adds the following site to the General Superfund section of the NPL. This site is being added to the NPL based on HRS score.

General Superfund section:

State	Site name	City/ county
CO	Colorado Smelter ...	Pueblo.

B. What did the EPA do with the public comments it received?

The EPA reviewed all comments received on the Colorado Smelter site, proposed May 12, 2014 (79 FR 26922), and responded to all relevant comments. Comments are addressed in a response to comment support document available in the public docket concurrently with this rule.

IV. Statutory and Executive Order Reviews

Additional information about these statutes 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 not a significant regulatory action and was therefore not submitted to the Office of Management and Budget (OMB) for review.

B. Paperwork Reduction Act (PRA)

This action does not impose an information collection burden under the PRA. This rule does not contain any information collection requirements that require approval of the OMB.

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. This rule listing sites on the NPL does not impose any obligations on any group, including small entities. This rule also does not establish standards or requirements that any small entity must meet, and imposes no direct costs on any small entity. Whether an entity, small or otherwise, is liable for response costs for a release of hazardous substances depends on whether that entity is liable under CERCLA 107(a). Any such liability exists regardless of whether the site is listed on the NPL through this rulemaking.

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. Listing a site on the NPL does not itself impose any costs. Listing does not mean that the EPA necessarily will undertake remedial action. Nor does listing require any action by a private party, state, local or tribal governments or determine liability for response costs. Costs that arise out of site responses result from future site-specific decisions regarding what actions to take, not directly from the act of placing a site on the NPL

E. Executive Order 13132: Federalism

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

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

This action does not have tribal implications as specified in Executive Order 13175. Listing a site on the NPL does not impose any costs on a tribe or require a tribe to take remedial action. Thus, Executive Order 13175 does not apply to this action.

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 this action itself is procedural in nature (adds sites to a list) and does not, in and of itself, provide protection from environmental health and safety risks. Separate future regulatory actions are required for mitigation of environmental health and safety risks.

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 and 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 because it does not affect the level of protection provided to human health or the environment. As discussed in Section I.C. of the preamble to this action, the NPL is a list of national priorities. The NPL is intended primarily to guide the EPA in determining which sites warrant further

investigation to assess the nature and extent of public health and environmental risks associated with a release of hazardous substances, pollutants or contaminants. The NPL is of only limited significance as it does not assign liability to any party. Also, placing a site on the NPL does not mean that any remedial or removal action necessarily need be taken.

K. Congressional Review Act

This action is subject to the CRA, and the EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

Provisions of the Congressional Review Act (CRA) or section 305 of CERCLA may alter the effective date of this regulation. Under 5 U.S.C. 801(b)(1), a rule shall not take effect, or continue in effect, if Congress enacts (and the President signs) a joint resolution of disapproval, described under section 802. Another statutory provision that may affect this rule is CERCLA section 305, which provides for a legislative veto of regulations promulgated under CERCLA. Although *INS* v. *Chadha,* 462 U.S. 919,103 S. Ct. 2764 (1983), and *Bd. of Regents of the University of Washington* v. *EPA,* 86 F.3d 1214,1222 (D.C. Cir. 1996), cast the validity of the legislative veto into question, the EPA has transmitted a copy of this regulation to the Secretary of the Senate and the Clerk of the House of Representatives.

If action by Congress under either the CRA or CERCLA section 305 calls the effective date of this regulation into question, the EPA will publish a document of clarification in the **Federal Register**.

List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous substances, Hazardous waste, Intergovernmental relations, Natural resources, Oil pollution, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

Dated: December 3, 2014.

Mathy Stanislaus,

Assistant Administrator, Office of Solid Waste and Emergency Response.

40 CFR part 300 is amended as follows:

PART 300—NATIONAL OIL AND HAZARDOUS SUBSTANCES POLLUTION CONTINGENCY PLAN

■ 1. The authority citation for part 300 continues to read as follows:

Authority: 33 U.S.C. 1321(c)(2); 42 U.S.C. 9601–9657; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; E.O. 12580, 52 FR 2923, 3 CFR, 1987 Comp., p. 193.

■ 2. Table 1 of Appendix B to part 300 is amended by adding an entry for ''Colorado Smelter'' in alphabetical order by state to read as follows:

Appendix B to Part 300 National Priorities List

TABLE 1—GENERAL SUPERFUND SECTION

State	Site name	City/county	Notes [a]
*	*	*	*
CO	Colorado Smelter	Pueblo.	
*	*	*	*
*	*	*	*

Notes:

[a] A = Based on issuance of health advisory by Agency for Toxic Substances and Disease Registry (if scored, HRS score need not be greater than or equal to 28.50).

* * * * *

[FR Doc. 2014–28979 Filed 12–10–14; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 67

[Docket ID FEMA–2014–0002]

Final Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Final rule.

SUMMARY: Base (1-percent-annual-chance) Flood Elevations (BFEs) and modified BFEs are made final for the communities listed below. The BFEs and modified BFEs are the basis for the floodplain management measures that each community is required either to adopt or to show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The date of issuance of the Flood Insurance Rate Map (FIRM) showing BFEs and modified BFEs for each community. This date may be obtained by contacting the office where the maps are available for inspection as indicated in the table below.

ADDRESSES: The final BFEs for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the table below.

FOR FURTHER INFORMATION CONTACT: Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–4064, or (email) *Luis.Rodriguez3@fema.dhs.gov.*

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) makes the final determinations listed below for the modified BFEs for each community listed. These modified elevations have been published in newspapers of local circulation and 90 days have elapsed since that publication. The Deputy Associate Administrator for Mitigation has resolved any appeals resulting from this notification.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR part 67. FEMA has developed criteria for floodplain management in floodprone areas in accordance with 44 CFR part 60.

Interested lessees and owners of real property are encouraged to review the proof Flood Insurance Study and FIRM available at the address cited below for each community.

The BFEs and modified BFEs are made final in the communities listed

below. Elevations at selected locations in each community are shown.

National Environmental Policy Act. This final rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Consideration. An environmental impact assessment has not been prepared.

Regulatory Flexibility Act. As flood elevation determinations are not within the scope of the Regulatory Flexibility Act, 5 U.S.C. 601–612, a regulatory flexibility analysis is not required.

Regulatory Classification. This final rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 13132, Federalism. This final rule involves no policies that have federalism implications under Executive Order 13132.

Executive Order 12988, Civil Justice Reform. This final rule meets the applicable standards of Executive Order 12988.

List of Subjects in 44 CFR Part 67

Administrative practice and procedure, Flood insurance, Reporting and recordkeeping requirements.

Dated: October 31, 2014.

Roy E. Wright,

Deputy Associate Administrator for Mitigation, Department of Homeland Security, Federal Emergency Management Agency.

Accordingly, 44 CFR part 67 is amended as follows:

PART 67—[AMENDED]

■ 1. The authority citation for part 67 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.;* Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 67.11 [Amended]

■ 2. The tables published under the authority of § 67.11 are amended as follows:

Flooding source(s)	Location of referenced elevation	*Elevation in feet (NGVD) +Elevation in feet (NAVD) #Depth in feet above ground ∧Elevation in meters (MSL) Modified	Communities affected
Platte County, Missouri, and Incorporated Areas Docket Nos.: FEMA–B–1178			
Bear Creek	Approximately 1,110 feet downstream of Main Street	+781	City of Weston, Unincorporated Areas of Platte County.
	Approximately 0.76 mile upstream of Highway 45	+804	
Bee Creek	Approximately 0.83 mile downstream of the Bleazard Branch confluence.	+863	City of Dearborn, Unincorporated Areas of Platte County.
	Approximately 0.74 mile upstream of Maple Leaf Road	+883	
Bee Creek Tributary	At the Bee Creek confluence	+878	City of Dearborn, Unincorporated Areas of Platte County.
	Approximately 1,325 feet upstream of Interurban Road	+889	
Benner Branch	At the Bear Creek confluence	+783	City of Weston.
	Approximately 75 feet upstream of Highway 45	+803	
Brills Creek	At the Benner Branch confluence	+791	City of Weston, Unincorporated Areas of Platte County.
	Approximately 150 feet upstream of Highway 45	+814	
Brush Creek	At the downstream side of Northwest 76th Street	+792	City of Parkville, Unincorporated Areas of Platte County.
	Approximately 1,500 feet upstream of State Highway 152	+820	
Burlington Creek	At the Missouri River confluence	+759	City of Riverside, Unincorporated Areas of Platte County.
	Approximately 850 feet upstream of North Helena Avenue	+800	

Flooding source(s)	Location of referenced elevation	*Elevation in feet (NGVD) +Elevation in feet (NAVD) #Depth in feet above ground ∧Elevation in meters (MSL) Modified	Communities affected
Burlington Creek Tributary 2	Approximately 950 feet upstream of Northwest Platte Drive	+764	City of Riverside, Unincorporated Areas of Platte County.
	Approximately 1,275 feet upstream of Northeast Platte Drive	+768	
East Creek	At the Line Creek confluence	+768	City of Riverside.
	Approximately 100 feet downstream of Northwest Vivion Road	+769	
First Creek	At the Clay County boundary	+864	Unincorporated Areas of Platte County.
	Approximately 0.82 mile downstream of Northwest 128th Street	+895	
Grove Creek	Approximately 0.74 mile downstream of Platte Avenue	+815	City of Edgerton, Unincorporated Areas of Platte County.
	Approximately 150 feet upstream of State Highway Z	+848	
Jumping Branch	At the Line Creek confluence	+756	City of Riverside, Village of Houston Lake.
	Approximately 200 feet upstream of I–635	+819	
Line Creek	At the Missouri River confluence	+756	City of Northmoor, City of Riverside.
	Approximately 300 feet downstream of I–29	+772	
Line Creek Tributary 2	Approximately 650 feet downstream of Northwest South Shore Drive.	+877	City of Lake Waukomis.
	At the downstream side of Northwest South Shore Drive	+937	
Missouri River	Approximately 850 feet upstream of the Clay County boundary	+756	Village of Iatan, City of Parkville, City of Riverside, City of Weston, Unincorporated Areas of Platte County.
	Approximately 0.53 mile downstream of the Buchanan County boundary.	+791	
Platte River	At the Missouri River confluence	+769	City of Platte City, City of Tracy, Unincorporated Areas of Platte County, Village of Farley.
	Approximately 0.48 mile upstream of I–29	+782	
Rush Creek	At the Missouri River confluence	+760	City of Parkville, Unincorporated Areas of Platte County.
	Approximately 0.56 mile upstream of the Walnut Creek confluence	+771	
Second Creek	Approximately 750 feet downstream of State Highway 92	+822	Unincorporated Areas of Platte County.
	Approximately 3 miles downstream of State Highway 291	+881	
Todd Creek	Approximately 1,600 feet downstream of Water Treatment Plant Road.	+822	Unincorporated Areas of Platte County.
	Approximately 1,400 feet downstream of Water Treatment Plant Road.	+822	

Flooding source(s)	Location of referenced elevation	*Elevation in feet (NGVD) +Elevation in feet (NAVD) #Depth in feet above ground ∧Elevation in meters (MSL) Modified	Communities affected
Walnut Creek	At the Rush Creek Confluence	+768	City of Parkville, Unincorporated Areas of Platte County.
	Approximately 1,600 feet upstream of Northwest Eastside Drive	+876	
Wells Branch	At the Bear Creek confluence	+781	City of Weston, Unincorporated Areas of Platte County.
	Approximately 150 feet upstream of County Road JJ	+830	
White Branch	At the Rush Creek confluence	+760	City of Parkville.
	Approximately 0.67 mile upstream of East 6th Street	+855	
Wildcat Branch	Approximately 950 feet upstream of the Todd Creek confluence	+856	Village of Ferrelview.
	Approximately 0.46 mile upstream of I–435	+945	

* National Geodetic Vertical Datum.
+ North American Vertical Datum.
# Depth in feet above ground.
∧ Mean Sea Level, rounded to the nearest 0.1 meter.

ADDRESSES:

City of Dearborn:
Maps are available for inspection at City Hall, 101 3rd Street, Dearborn, MO 64439.

City of Edgerton:
Maps are available for inspection at City Hall, 411 Front Street, Edgerton, MO 64444.

City of Lake Waukomis:
Maps are available for inspection at City Hall, 1147 Northwest South Shore Drive, Lake Waukomis, MO 64151.

City of Northmoor:
Maps are available for inspection at City Hall, 4907 Northwest Waukomis Drive, Northmoor, MO 64151.

City of Parkville:
Maps are available for inspection at City Hall, 8880 Clark Avenue, Parkville, MO 64152.

City of Platte City:
Maps are available for inspection at City Hall, 400 Main Street, Platte City, MO 64079.

City of Riverside:
Maps are available for inspection at City Hall, 2950 Northwest Vivion Road, Riverside, MO 64150.

City of Tracy:
Maps are available for inspection at City Hall, 208 2nd Street, Tracy, MO 64079.

City of Weston:
Maps are available for inspection at City Hall, 300 Main Street, Weston, MO 64098.

Unincorporated Areas of Platte County:
Maps are available for inspection at the Platte County Courthouse, 415 3rd Street, Suite 115, Platte City, MO 64079.

Village of Farley:
Maps are available for inspection at City Hall, 1116 River Road, Farley, MO 64028.

Village of Ferrelview:
Maps are available for inspection at City Hall, 205 Northwest Heady Avenue, Ferrelview, MO 64163.

Village of Houston Lake:
Maps are available for inspection at City Hall, 5417 Northwest Adrian Street, Houston Lake, MO 64151.

Village of Iatan:
Maps are available for inspection at City Hall, 125 Main Street, Iatan, MO 64098.

[FR Doc. 2014–29090 Filed 12–10–14; 8:45 am]
BILLING CODE 9110–12–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 2 and 15

[GN Docket No. 12–268; FCC 14–50]

Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions

AGENCY: Federal Communications Commission.

ACTION: Final rule; announcement of effective date.

SUMMARY: On August 15, 2014, the Commission released a Report and Order, ''Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions.'' This document announces an effective date for several sections in the final regulations that appeared in the **Federal Register** on August 15, 2014 (79 FR 48442).

DATES: 47 CFR 2.1033(c)(19)(iii); 15.713(b)(2)(iv) and 15.713(h)(10), published in the **Federal Register** on August 15, 2914 (79 FR 48442) are effective December 11, 2014.

FOR FURTHER INFORMATION CONTACT: Nancy Brooks, Office of Engineering and Technology, (202) 418–2454 or email *Nancy.Brooks@fcc.gov.*

SUPPLEMENTARY INFORMATION:

Background

The final regulations that are the subject of this document relate to ''Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions'' under the dates section for §§ 2.1033(c)(19)(iii); 15.713(b)(2)(iv) and 15.713(h)(10) of the rules.

Need for Correction

As published, the **DATES** section contains errors, which may prove to be misleading.

In the **DATES** section of the **Federal Register** §§ 2.1033(c)(19)(iii); 15.713(b)(2)(iv) and 15.713(h)(10) were inadvertently listed with sections that were not yet effective. These sections do not contain new or modified information collection requirements that require approval by the Office of Management and Budget.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 2014–28896 Filed 12–10–14; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Telecommunications and Information Administration

47 CFR Part 300

[Docket Number: 141201999–4999–01]

RIN 0660–AA28

Revision to the Manual of Regulations and Procedures for Federal Radio Frequency Management

AGENCY: National Telecommunications and Information Administration, U.S. Department of Commerce.

ACTION: Final rule.

SUMMARY: The National Telecommunications and Information Administration (NTIA) is making certain changes to its regulations relating to the public availability of the Manual of Regulations and Procedures for Federal Radio Frequency Management (NTIA Manual). Specifically, NTIA is releasing an update to the current edition of the NTIA Manual, with which federal agencies must comply when requesting use of radio frequency spectrum.

DATES: This regulation is effective on December 11, 2014. The incorporation by reference of certain publications listed in the rule is approved by the Director of the Federal Register as of December 11, 2014.

ADDRESSES: A reference copy of the NTIA Manual, including all revisions in effect, is available in the Office of Spectrum Management, 1401 Constitution Avenue NW., Room 1087, Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: William Mitchell, Office of Spectrum Management at (202) 482–8124 or *wmitchell@ntia.doc.gov.*

SUPPLEMENTARY INFORMATION:

Background

NTIA authorizes the U.S. Government's use of radio frequency spectrum. 47 U.S.C. 902(b)(2)(A). As part of this authority, NTIA developed the NTIA Manual to provide further guidance to applicable federal agencies on the use of the radio frequency spectrum for radio transmissions for telecommunications or for other purposes. The NTIA Manual is the compilation of policies and procedures that govern the use of the radio frequency spectrum by the U.S. Government. Federal government agencies are required to follow these policies and procedures in their use of spectrum.

Part 300 of title 47 of the Code of Federal Regulations provides information about the process by which NTIA regularly revises the NTIA Manual and makes public this document and all revisions. Federal agencies are required to comply with the specifications in the NTIA Manual when requesting frequency assignments. *See* 47 U.S.C. 901 *et seq.,* Executive Order 12046 (March 27, 1978), 43 FR 13349, 3 CFR 1978 Comp. at 158.

This rule updates section § 300.1(b) of title 47 of the Code of Federal Regulations to specify the edition of the NTIA Manual with which federal agencies must comply when requesting frequency assignments. In particular, this rule amends § 300.1(b) by replacing ''2013 Edition of the NTIA Manual, dated May 2013.'' with ''2013 Edition of the NTIA Manual, as revised through May 2014.'' *See* Revision to the Manual of Regulations and Procedures for Federal Radio Frequency Management, 78 FR 52097, 52097–98 (Aug. 22, 2013) (revising the Manual through May 2013). Upon the effective date of this rule, federal agencies must comply with the requirements set forth in the 2013 edition of the NTIA Manual, as revised through May 2014.

The NTIA Manual is scheduled for revision in January, May, and September of each year and is submitted to the Director of the Federal Register for Incorporation by Reference approval. The Director of the Federal Register approved this incorporation by reference in accordance with 5 U.S.C. 552(a) and part 51 of title 1 of the Code of Federal Regulations. The NTIA Manual is available from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, by referring to Catalog Number 903–008–00000–8. A reference copy of the NTIA Manual, including all revisions in effect, is available in the Office of Spectrum Management, 1401 Constitution Avenue NW., Room 1087, Washington, DC 20230, by calling William Mitchell on (202) 482–8124, and available online at *http://www.ntia.doc.gov/page/2011/manual-regulations-and-procedures-federal-radio-frequency-management-redbook.* The NTIA Manual is also on file 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.*

Paperwork Reduction Act

This action does not contain collection of information requirements subject to the Paperwork Reduction Act

(PRA). Notwithstanding any other provision of law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with a collection of information subject to the Paperwork Reduction Act unless that collection displays a currently valid OMB Control Number.

Executive Order 12866

This rule has been determined to be not significant for purposes of Executive Order 12866.

Administrative Procedure Act/ Regulatory Flexibility Act

NTIA finds good cause under 5 U.S.C. 553(b)(3)(B) to waive prior notice and opportunity for public comment as it is unnecessary. This action amends the regulations to include the date of the most current edition of the NTIA Manual. These changes do not impact the rights or obligations to the public. The NTIA Manual applies only to federal agencies. Because these changes impact only federal agencies, NTIA finds it unnecessary to provide for the notice and comment requirements of 5 U.S.C. 553. NTIA finds good cause under 5 U.S.C. 553(d)(3) to waive the 30-day delay in effectiveness for the reasons provided above. Because notice and opportunity for comment are not required pursuant to 5 U.S.C. 553 or any other law, the analytical requirements of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) are not applicable. Therefore, a regulatory flexibility analysis is not required and has not been prepared.

Congressional Review Act

The NTIA Manual provides for policies and procedures for federal agencies' use of spectrum. The NTIA Manual and the changes thereto do not substantially affect the rights or obligations of the public. As a result, this notice is not a ''rule'' as defined by the Congressional Review Act, 5 U.S.C. 804(3)(C).

Executive Order 13132

This rule does not contain policies having federalism implications as that term is defined in Executive Order 13132.

Regulatory Text

List of Subjects in 47 CFR Part 300

Communications, Incorporation by reference, Radio.

For the reasons set forth in the preamble, NTIA amends the Code of Federal Regulations, title 47, part 300 as follows:

PART 300—MANUAL OF REGULATIONS AND PROCEDURES FOR FEDERAL RADIO FREQUENCY MANAGEMENT

■ 1. The authority citation for part 300 continues to read as follows:

Authority: 47 U.S.C. 901 *et seq.,* Executive Order 12046 (March 27, 1978), 43 FR 13349, 3 CFR 1978 Comp., p. 158.

■ 2. Section 300.1(b) is revised to read as follows:

§ 300.1 Incorporation by reference of the Manual of Regulations and Procedures for Federal Radio Frequency Management.

* * * * *

(b) The federal agencies shall comply with the requirements set forth in the 2013 edition of the NTIA Manual, as revised through May 2014, which is incorporated by reference with approval of the Director, Office of the Federal Register in accordance with 5. U.S.C. 552(a) and 1 CFR part 51.

* * * * *

Dated: December 4, 2014.

Lawrence E. Strickling,

Assistant Secretary for Communications and Information.

[FR Doc. 2014–28841 Filed 12–10–14; 8:45 am]

BILLING CODE 3510–60–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Part 203

RIN 0750–AI48

Defense Federal Acquisition Regulation Supplement: Deletion of Certification Requirement Regarding Separation of Duties of Senior Leaders (DFARS Case 2015–D003)

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Final rule.

SUMMARY: DoD is issuing a final rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to delete the requirement for DoD departments and agencies to certify every two years that no senior leader has performed multiple roles in the acquisition of a major weapon system or major service.

DATES: Effective December 11, 2014.

FOR FURTHER INFORMATION CONTACT: Ms. Amy G. Williams, telephone 571–372–6106.

SUPPLEMENTARY INFORMATION:

I. Background

DFARS 203.170(a) implements a Defense Procurement and Acquisition Policy (DPAP) memorandum, dated September 17, 2008, which has now been rescinded because the necessary information is incorporated in the DFARS and the DFARS companion document, ''Procedures, Guidance, and Information (PGI).'' However, departments and agencies are no longer required to submit every two years to DPAP (Contract Policy and International Contracting) a certification that no senior leader has performed multiple roles in source selection for a major weapon system or major service acquisition.

II. Publication of This Final Rule for Public Comment Is Not Required by Statute

''Publication of proposed regulations'', 41 U.S.C. 1707, is the statute that applies to the publication of the Federal Acquisition Regulation. Paragraph (a)(1) of the statute requires that a procurement policy, regulation, procedure or form (including an amendment or modification thereof) must be published for public comment if it relates to the expenditure of appropriated funds, and has either a significant effect beyond the internal operating procedures of the agency issuing the policy, regulation, procedure or form, or has a significant cost or administrative impact on contractors or offerors. This final rule is not required to be published for public comment, because it only affects the roles of senior leaders within the Department of Defense in source selection for a major weapon system or major service acquisition. These requirements affect only the internal operating procedures of the Government.

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 is not a significant regulatory action and, therefore, was not subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. This

rule is not a major rule under 5 U.S.C. 804.

IV. Regulatory Flexibility Act

The Regulatory Flexibility Act does not apply to this rule because this final rule does not constitute a significant DFARS revision within the meaning of FAR 1.501–1 and 41 U.S.C. 1707 does not require publication for public comment.

V. Paperwork Reduction Act

The rule does not contain any information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. chapter 35).

List of Subjects in 48 CFR Part 203

Government procurement.

Manuel Quinones,

Editor, Defense Acquisition Regulations System.

Therefore, 48 CFR part 203 is amended as follows:

PART 203—IMPROPER BUSINESS PRACTICES AND PERSONAL CONFLICTS OF INTEREST

■ 1. The authority citation for 48 CFR part 203 continues to read as follows:

Authority: 41 U.S.C. 1303 and 48 CFR chapter 1.

■ 2. In section 203.170, revise paragraph (a) to read as follows:

203.170 Business practices.

* * * * *

(a) Senior leaders shall not perform multiple roles in source selection for a major weapon system or major service acquisition.

* * * * *

[FR Doc. 2014–28817 Filed 12–10–14; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Parts 204, 209, 212, 225, and 252

RIN 0750–AI34

Defense Federal Acquisition Regulation Supplement: State Sponsors of Terrorism (DFARS Case 2014–D014)

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Final rule.

SUMMARY: DoD is issuing a final rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to clarify and relocate text relating to state sponsors of terrorism (as identified by the Department of State), add an explicit representation, and conform the terminology.

DATES: Effective December 11, 2014.

FOR FURTHER INFORMATION CONTACT: Ms. Amy G. Williams, telephone 571–372–6106.

SUPPLEMENTARY INFORMATION:

I. Background

DoD published a proposed rule in the **Federal Register** at 79 FR 45666 on August 5, 2014, to clarify and relocate coverage relating to state sponsors of terrorism (as identified by the Department of State), add an explicit representation, and conform the terminology. No respondents submitted public comments in response to the proposed rule.

This rule is part of DoD's retrospective plan, completed in August 2011, under Executive Order 13563, ''Improving Regulation and Regulatory Review.'' DoD's full plan and updates can be accessed at: *http://www.regulations.gov/#!docketDetail;dct=FR+PR+N+O+SR;rpp=10;po=0;D=DOD-2011-OS-0036.*

II. Discussion and Analysis

No public comments were received. The final rule is the same as the proposed rule, except for minor edits.

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 is not a significant regulatory action and, therefore, was not subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

IV. Regulatory Flexibility Act

DoD certifies that this rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.,* because this rule will only have an impact on a firm, or a subsidiary of a firm, in which the government of a country that is a state sponsor of terrorism has a significant interest.

The number of domestic entities significantly impacted by this rule will be minimal, if any. For the definition of ''small business,'' the Regulatory Flexibility Act refers to the Small Business Act, which in turn allows the U.S. Small Business Administration (SBA) Administrator to specify detailed definitions or standards (5 U.S.C. 601(3) and 15 U.S.C. 632(a)). The SBA regulations at 13 CFR 121.105 discuss who is a small business: ''(a)(1) Except for small agricultural cooperatives, a business concern eligible for assistance from SBA as a small business is a business entity organized for profit, with a place of business located in the United States, and which operates primarily within the United States or which makes a significant contribution to the U.S. economy through payment of taxes or use of American products, materials or labor.''

V. Paperwork Reduction Act

The rule contains information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C chapter 35); however, these changes to the DFARS do not impose additional information collection requirements to the paperwork burden previously approved under OMB Control Number 0704–0187, entitled ''Information Collection in Support of the DoD Acquisition Process (Various Miscellaneous Requirements).'' This final rule removes provision 252.209–7001, Disclosure of Ownership or Control by the Government of a Terrorist Country, and replaces it with provision 252.225–7050, Disclosure of Ownership or Control by the Government of a Country that is a State Sponsor of Terrorism. The burden in clearance 0704–0187 previously associated with the provision 252.209–7001, which is now associated with provision 252.225–7050, remains unchanged and is estimated at 1 hour, because such disclosure occurs rarely, if ever. 10 U.S.C. prohibits award to a firm or a subsidiary of a firm if the government of country that is a state sponsor of terrorism has a significant interest in the firm or subsidiary, unless the Secretary of Defense grants a waiver.

List of Subjects in 48 CFR Parts 204, 209, 212, 225, and 252

Government procurement.

Manuel Quinones,

Editor, Defense Acquisition Regulations System.

Therefore, 48 CFR parts 204, 209, 212, 225, and 252 are proposed to be amended as follows:

■ 1. The authority citation for parts 204, 209, 212, 225, and 252 continues to read as follows:

Authority: 41 U.S.C. 1303 and 48 CFR chapter 1.

PART 204—ADMINISTRATIVE MATTERS

■ 2. Amend section 204.1202 by—

■ a. Removing paragraph (2)(i);

■ b. Redesignating paragraphs (2)(ii) through (x) as (2)(i) though (ix), respectively; and

■ c. Adding new paragraph (2)(x) to read as follows:

204.1202 Solicitation provision.

* * * * *

(2) * * *

(x) 252.225–7050, Disclosure of Ownership or Control by the Government of a Country that is a State Sponsor of Terrorism.

* * * * *

PART 209—CONTRACTOR QUALIFICATIONS

■ 3. Amend section 209.104–1, by revising paragraph (g)(i) to read as follows:

209.104–1 General standards.

* * * * *

(g)(i) *Ownership or control by the government of a country that is a state sponsor of terrorism.* (See 225.771.)

* * * * *

■ 4. Revise section 209.104–70 to read as follows:

209.104–70 Solicitation provision.

Use the provision at 252.209–7002, Disclosure of Ownership or Control by a Foreign Government, in all solicitations, including those subject to the procedures in FAR part 13, when access to proscribed information is necessary for contract performance. If the solicitation includes the provision at FAR 52.204–7, do not separately list the provision 252.209–7002 in the solicitation.

■ 5. Amend section 209.405, by revising paragraph (b)(i) to read as follows:

209.405 Effect of listing.

* * * * *

(b)(i) The Procurement Cause and Treatment Code ''H'' annotation in the Exclusions section of the System for Award Management (SAM Exclusions) identifies contractor facilities where no part of a contract or subcontract may be performed because of a violation of the Clean Air Act (42 U.S.C. 7606) or the Clean Water Act (33 U.S.C. 1368).

* * * * *

■ 6. Revise section 209.405–2 to read as follows:

209.405–2 Restrictions on subcontracting.

(a) The contracting officer shall not consent to any subcontract with a firm, or a subsidiary of a firm, that is identified by the Secretary of Defense in SAM Exclusions as being owned or controlled by the government of a country that is a state sponsor of terrorism unless the agency head states in writing the compelling reasons for the subcontract. (See also 225.771.)

■ 7. Revise section 209.409 to read as follows:

209.409 Solicitation provision and contract clause.

Use the clause at 252.209–7004, Subcontracting with Firms that are Owned or Controlled by the Government of a Country that is a State Sponsor of Terrorism, in solicitations and contracts with a value of $150,000 or more.

PART 212—ACQUISITION OF COMMERCIAL ITEMS

■ 8. Amend section 212.301 by—

■ a. Removing paragraph (f)(xi);

■ b. Redesignating paragraphs (f)(xii) through (xlviii) as (xi) through (xlvii); and

■ b. Adding a new paragraph (f)(xlviii) to read as follows:

212.301 Solicitation provisions and contract clauses for the acquisition of commercial items.

(f) * * * * *

(xlviii) Use the provision at 252.225–7050, Disclosure of Ownership or Control by the Government of a Country that is a State Sponsor of Terrorism, as prescribed in 225.771–5, to comply with 10 U.S.C. 2327(b).

* * * * *

PART 225—FOREIGN ACQUISITION

225.701 [Amended]

■ 9. In section 225.701, remove the section text.

■ 10. Add sections 225.771, 225.771–0, 225.771–1, 225.771–2, 225.771–3, 225.771–4, and 225.771–5 to subpart 225.7 to read as follows:

225.771 Prohibition on contracting or subcontracting with a firm that is owned or controlled by the government of a country that is a state sponsor of terrorism.

225.771–0 Scope.

This section implements 10 U.S.C. 2327(b).

225.771–1 Definition.

''State sponsor of terrorism,'' as used in this section, is defined in the provision at 252.225–7050, Disclosure of Ownership or Control by the Government of a Country that is a State Sponsor of Terrorism.

225.771–2 Prohibition.

(a) The contracting officer shall not award a contract of $150,000 or more to a firm when a foreign government that is a state sponsor of terrorism owns or controls, either directly or indirectly, a significant interest in—

(i) The firm;

(ii) A subsidiary of the firm; or

(iii) Any other firm that owns or controls the firm.

(b) For restrictions on subcontracting with a firm, or a subsidiary of a firm, that is identified by the Secretary of Defense as being owned or controlled by the government of a country that is a state sponsor of terrorism, see 209.405–2.

225.771–3 Notification.

Any disclosure that the government of a country that is a state sponsor of terrorism has a significant interest in an offeror, a subsidiary of an offeror, or any other firm that owns or controls an offeror shall be forwarded through agency channels to the address at PGI 225.771–3.

225.771–4 Waiver of prohibition.

The prohibition in 225.771–2 may be waived if the Secretary of Defense determines that a waiver is not inconsistent with the national security objectives of the United States in accordance with 10 U.S.C. 2327(c).

225.771–5 Solicitation provision.

Use the provision at 252.225–7050, Disclosure of Ownership or Control by the Government of a Country that is a State Sponsor of Terrorism, in solicitations, including solicitations using FAR part 12 procedures for the acquisition of commercial items (other than commercial satellite services), that are expected to result in contracts of $150,000 or more. If the solicitation includes the provision at FAR 52.204–7, do not separately list the provision 252.225–7050 in the solicitation.

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 11. Amend section 252.204–7007 by—
■ a. Removing the clause date ''(AUG 2014)'' and adding ''(DEC 2014)'' in its place;
■ b. Removing paragraph (d)(1)(i);
■ c. Redesignating paragraphs (d)(1)(ii) through (v) as (d)(1)(i) through (iv); and
■ d. Adding a new paragraph (d)(1)(v).

The addition reads as follows:

252.204–7007 Alternate A, Annual Representations and Certifications.

* * * * *

(d)(1) * * *

(v) 252.225–7050, Disclosure of Ownership or Control by the Government of a Country that is a State Sponsor of Terrorism. Applies to all solicitations expected to result in contracts of $150,000 or more.

* * * * *

252.209–7001 [Removed and Reserved]

■ 12. Remove and reserve section 252.209–7001.

252.209–7002 [Amended]

■ 13. Amend section 252.209–7002 introductory text by removing ''209.104–70(b)'' and adding ''209.104–70'' in its place.

■ 14. Revise section 252.209–7004 to read as follows:

252.209–7004 Subcontracting with Firms that are Owned or Controlled by the Government of a Country that is a State Sponsor of Terrorism.

As prescribed in 209.409, use the following clause:

SUBCONTRACTING WITH FIRMS THAT ARE OWNED OR CONTROLLED BY THE GOVERNMENT OF A COUNTRY THAT IS A STATE SPONSOR OF TERRORISM (DEC 2014)

(a) Unless the Government determines that there is a compelling reason to do so, the Contractor shall not enter into any subcontract in excess of $30,000 with a firm, or a subsidiary of a firm, that is identified in the Exclusions section of the System for Award Management System (SAM Exclusions) as being ineligible for the award of Defense contracts or subcontracts because it is owned or controlled by the government of a country that is a state sponsor of terrorism.

(b) A corporate officer or a designee of the Contractor shall notify the Contracting Officer, in writing, before entering into a subcontract with a party that is identified, in SAM Exclusions, as being ineligible for the award of Defense contracts or subcontracts because it is owned or controlled by the government of a country that is a state sponsor of terrorism. The notice must include the name of the proposed subcontractor and the compelling reason(s) for doing business with the subcontractor notwithstanding its inclusion in SAM Exclusions.

(End of clause)

■ 15. Add section 252.225–7050 to read as follows:

252.225–7050 Disclosure of Ownership or Control by the Government of a Country that is a State Sponsor of Terrorism.

As prescribed in 225.771–5, use the following provision:

DISCLOSURE OF OWNERSHIP OR CONTROL BY THE GOVERNMENT OF A COUNTRY THAT IS A STATE SPONSOR OF TERRORISM (DEC 2014)

(a) *Definitions.* As used in this provision—

Government of a country that is a state sponsor of terrorism includes the state and the government of a country that is a state sponsor of terrorism, as well as any political subdivision, agency, or instrumentality thereof.

Significant interest means—

(i) Ownership of or beneficial interest in 5 percent or more of the firm's or subsidiary's securities. Beneficial interest includes holding 5 percent or more of any class of the firm's securities in ''nominee shares,'' ''street names,'' or some other method of holding securities that does not disclose the beneficial owner;

(ii) Holding a management position in the firm, such as a director or officer;

(iii) Ability to control or influence the election, appointment, or tenure of directors or officers in the firm;

(iv) Ownership of 10 percent or more of the assets of a firm such as equipment, buildings, real estate, or other tangible assets of the firm; or

(v) Holding 50 percent or more of the indebtedness of a firm.

State sponsor of terrorism means a country determined by the Secretary of State, under section 6(j)(1)(A) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)(1)(A)), to be a country the government of which has repeatedly provided support for acts of international terrorism. As of the date of this provision, state sponsors of terrorism include: Cuba, Iran, Sudan, and Syria.

(b) *Prohibition on award.* In accordance with 10 U.S.C. 2327, unless a waiver is granted by the Secretary of Defense, no contract may be awarded to a firm if the government of a country that is a state sponsor of terrorism owns or controls a significant interest in—

(1) The firm;

(2) A subsidiary of the firm; or

(3) Any other firm that owns or controls the firm.

(c) *Representation.* Unless the Offeror submits with its offer the disclosure required in paragraph (d) of this provision, the Offeror represents, by submission of its offer, that the government of a country that is a state sponsor of terrorism does not own or control a significant interest in—

(1) The Offeror;

(2) A subsidiary of the Offeror; or

(3) Any other firm that owns or controls the Offeror.

(d) *Disclosure.* (1) The Offeror shall disclose in an attachment to its offer if the government of a country that is a state sponsor of terrorism owns or controls a significant interest in the Offeror; a subsidiary of the Offeror; or any other firm that owns or controls the Offeror.

(2) The disclosure shall include—

(i) Identification of each government holding a significant interest; and

(ii) A description of the significant interest held by each government.

(End of provision)

[FR Doc. 2014–28819 Filed 12–10–14; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Parts 204, 212, 225, and 252

RIN 0750–AI32

Defense Federal Acquisition Regulation Supplement: Foreign Commercial Satellite Services (DFARS Case 2014–D010)

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Final rule.

SUMMARY: DoD has adopted as final, with minor editorial changes, an interim rule that amended the Defense Federal Acquisition Regulation Supplement (DFARS) to implement a section of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2014 that prohibits acquisition of commercial satellite services from certain foreign entities.

DATES: Effective December 11, 2014.

FOR FURTHER INFORMATION CONTACT: Ms. Amy G. Williams, telephone 571–372–6106.

SUPPLEMENTARY INFORMATION:

I. Background

DoD published an interim rule in the **Federal Register** at 79 FR 45662 on August 5, 2014, to implement section 1602 of the NDAA for FY 2014 (Pub. L. 113–66). Section 1602 prohibits award of a contract for commercial satellite services to a foreign entity if the Secretary of Defense reasonably believes that the foreign entity—

• Is an entity in which the government of a covered foreign country has an ownership interest that enables the government to affect satellite operations; or

• Plans to, or is expected to, provide or use launch or other satellite services under the contract from a covered foreign country.

A covered foreign country means the People's Republic of China, North Korea, or any country that is a state sponsor of terrorism, as described in section 1261(c)(2) of the NDAA for FY 2013 (Pub. L. 112–239). State sponsors of terrorism, as determined by the Secretary of State, currently include Cuba, Iran, Sudan, and Syria.

No public comments were received in response to the proposed rule.

II. Discussion and Analysis

This rule converts the interim rule, with only minor editorial changes, to a final rule.

III. Applicability to Acquisitions Not Greater Than the Simplified Acquisition Threshold (SAT) and Commercial Items

10 U.S.C. 2279 is silent on applicability to contracts and subcontracts in amounts not greater than the SAT or for the acquisition of commercial items. Also, the statute does not provide for criminal or civil penalties. Therefore, it does not apply to the acquisition of contracts and subcontracts in amounts not greater than the SAT or the acquisition of commercial items unless the Director, DPAP, makes a written determination as provided in 41 U.S.C. 1905.

There is a potential risk to national security if DoD uses commercial satellite services for DoD communications and the government of a covered foreign country has an ownership interest that enables the government to affect satellite operations, regardless of the dollar value of the contract or order. Likewise, if launch or other satellite services under the contract are occurring in a covered country, the government of that country could impact the ability of the foreign entity to adequately provide those services. Furthermore, although 10 U.S.C. 2279 does not specifically reference 41 U.S.C. 1906, the statute only applies to the acquisition of commercial satellite services, so exempting commercial items from application of the statute would negate the intended effect of the statute. Therefore, consistent with 41 U.S.C. 1905 and 1906, the Director, Defense Procurement and Acquisition Policy, determined that it would not be in the best interest of the United States to exempt acquisitions not greater than the SAT and acquisitions of commercial items from the applicability of 10 U.S.C. 2279.

IV. 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 is not a significant regulatory action and, therefore, was not subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

V. Regulatory Flexibility Act

This final rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.* However, a final regulatory flexibility analysis has been performed and is summarized as follows:

DoD is converting to a final rule, without change, an interim rule that amended the Defense Federal Acquisition Regulation Supplement (DFARS) to implement section 1602 of the National Defense Authorization Act (NDAA) for FY 2014. Section 1602 added 10 U.S.C. 2279, which prohibits acquisition of commercial satellite services from certain foreign entities.

The objective of the rule is to implement 10 U.S.C. 2279, which is the legal basis for the rule. The statute prohibits award of contracts for commercial satellite services to a foreign entity that—

• Is an entity in which the government of a covered foreign country (*i.e.*, the People's Republic of China, North Korea, Cuba, Iran, Sudan, or Syria) has an ownership interest that enables the government to affect satellite operations; or

• Plans to, or is expected to, provide or use launch or other satellite services under the contract from a covered foreign country.

There were no public comments in response to the initial regulatory flexibility analysis.

DoD estimates that this rule will apply to less than 111 small entities. According to Federal Procurement Data System data for FY 2013, 111 small entities were awarded contracts or orders for services in PSC D304 (ADP Telecommunications and Transmission Services), of which commercial satellite services are a subset. Although the focus of the Regulatory Flexibility Act is protection of domestic small business entities that are eligible for assistance from the Small Business Administration, there may be domestic small business entities in the United States that offer the satellite services of a foreign entity that would be restricted by this rule.

This rule requires an annual representation as to whether the offeror is, or is not, a foreign entity subject to the prohibitions of the statute or is, or is not, offering commercial satellite services provided by such a foreign entity. Further information is required if the offeror provides an affirmative response to any of the representations, but such affirmative response and further submission is expected to be extremely rare.

This rule will not have a significant economic impact on any small entities, unless they are offering commercial satellite services provided by a foreign entity that is subject to the restrictions of this rule. DoD was not able to identify any alternatives that would reduce the burden on small entities and meet the objectives of the rule.

VI. Paperwork Reduction Act

The rule contains information collection requirements that have been approved by the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. chapter 35). This information collection requirement has been assigned OMB Control Number 0704–0525, titled: Foreign Commercial Satellite Services.

List of Subjects in 48 CFR Parts 204, 212, 225, and 252

Government procurement.

Manuel Quinones,

Editor, Defense Acquisition Regulations System.

Accordingly, the interim rule amending 48 CFR parts 204, 212, 225, and 252, which was published at 79 FR 45662 on August 5, 2014, is adopted as a final rule with the following changes:

■ 1. The authority citation for 48 CFR parts 212 and 252 continues to read as follows:

Authority: 41 U.S.C. 1303 and 48 CFR chapter 1.

PART 212—ACQUISITION OF COMMERCIAL ITEMS

212.301 [Amended]

■ 2. Amend section 212.301 in paragraph (f)(xlviii) by removing ''225.772–5'' and adding ''225.772–5, to

comply with 10 U.S.C. 2279'' in its place.

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

252.225–7049 [Amended]

■ 3. Amending section 252.225–7049 by—

■ a. Removing the clause date of ''(AUG 2014)'' and adding ''(DEC 2014)'' in its place; and

■ b. In paragraph (b) introductory text, removing ''DFARS 225.71–4'' and adding ''DFARS 225.772–4'' in its place.

[FR Doc. 2014–28813 Filed 12–10–14; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Parts 204 and 252

RIN 0750–AI44

Defense Federal Acquisition Regulation Supplement: Update Contractor and Government Entity (CAGE) Code Information (DFARS Case 2014–D013)

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Final rule.

SUMMARY: DoD is issuing a final rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to remove duplicative Commercial and Government Entity (CAGE) code instructions and an associated clause.

DATES: Effective December 11, 2014.

FOR FURTHER INFORMATION CONTACT: Mr. Dustin Pitsch, telephone 571–372–6090.

SUPPLEMENTARY INFORMATION:

I. Background

DoD is amending the DFARS to remove text that is duplicative as a result of Federal Acquisition Regulation (FAR) final rule 2012–024, ''Commercial and Government Entity Code''. The FAR rule, which was published in the **Federal Register** at 79 FR 31187 on May 30, 2014, requires all offerors to obtain a CAGE code, which was previously only required for the DoD. The new FAR CAGE code requirement took effect on November 1, 2014, which made the DFARS language at subpart 204.72 and the clause at 252.204–7001 no longer necessary.

The following changes are made by this rule:

- Add a reference at DFARS 204.18 to DFARS Procedures, Guidance, and Information text.
- Delete DFARS subpart 204.72.
- Delete the clause at DFARS 252.204–7001, Commercial and Government Entity (CAGE) Code Reporting.

II. Publication of This Final Rule for Public Comment Is Not Required by Statute

''Publication of proposed regulations'', 41 U.S.C. 1707, is the statute which applies to the publication of the Federal Acquisition Regulation. Paragraph (a)(1) of the statute requires that a procurement policy, regulation, procedure or form (including an amendment or modification thereof) must be published for public comment if it relates to the expenditure of appropriated funds, and has either a significant effect beyond the internal operating procedures of the agency issuing the policy, regulation, procedure or form, or has a significant cost or administrative impact on contractors or offerors. This final rule is not required to be published for public comment, because the rule is removing unnecessary text that is now covered in the FAR. These requirements affect only the internal operating procedures of the Government.

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 is not a significant regulatory action and, therefore, was not subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

IV. Regulatory Flexibility Act

The Regulatory Flexibility Act does not apply to this rule because this final rule does not constitute a significant DFARS revision within the meaning of FAR 1.501–1, and 41 U.S.C. 1707 does not require publication for public comment.

V. Paperwork Reduction Act

This rule affects the information collection requirements in the provision at DFARS 252.204–7001, currently approved under OMB Control Number 0704–0225, titled Defense Federal Acquisition Regulation Supplement Part 204, Administrative Matters, and related clauses at 252.204, in accordance with the Paperwork Reduction Act (44 U.S.C. chapter 35). The impact is that the burden related to DFARS clause 252.204–7001 will be decreased by 2,297 hours. OMB Form 83–C, Paperwork Reduction Act Change Worksheet, requesting removal of the 2,297 hours from the OMB Control Number 0704–0225 information collection has been approved by OMB.

List of Subjects in 48 CFR Parts 204 and 252

Government procurement.

Manuel Quinones,

Editor, Defense Acquisition Regulations System.

Therefore, 48 CFR parts 204 and 252 continues to read as follows:

Authority: 41 U.S.C. 1303 and 48 CFR chapter 1.

PART 204—ADMINISTRATIVE MATTERS

■ 2. Add subpart 204.18 to read as follows:

SUBPART 204.18—COMMERCIAL AND GOVERNMENT ENTITY CODE

Sec.
204.1870 Procedures.

SUBPART 204.18—COMMERCIAL AND GOVERNMENT ENTITY CODE

204.1870 Procedures.

Follow the procedures and guidance at PGI 204–1870 concerning Commercial and Government Entity (CAGE) codes and CAGE file maintenance.

Subpart 204.72 [Removed]

■ 3. Remove subpart 204.72, consisting of sections 204.7200, 204.7201, 204.7202, 204.7202–1, 204.7202–2, 204.7202–3, 204.7203, 204.7204, 204.7205, 204.7206, and 204.7207.

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

252.204–7001 [Removed and Reserved]

■ 4. Remove and reserve 252.204–7001.

[FR Doc. 2014–28814 Filed 12–10–14; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Part 215

RIN 0750–AH86

Defense Federal Acquisition Regulation Supplement; Forward Pricing Rate Proposal Adequacy Checklist (DFARS Case 2012–D035)

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Final rule.

SUMMARY: DoD is issuing a final rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to provide guidance to contractors for the submittal of forward pricing rate proposals.

DATES: Effective December 11, 2014.

FOR FURTHER INFORMATION CONTACT: Mr. Mark Gomersall, telephone 571–372–6099.

SUPPLEMENTARY INFORMATION:

I. Background

DoD published a proposed rule at 78 FR 28790 on May 16, 2013, to revise the DFARS at 215.403–5 by adding instructions to contracting officers to request contractors to submit the proposed forward pricing rate proposal (FPRP) adequacy checklist at Table 215.403–1 with forward pricing rate proposals.

II. Discussion and Analysis

DoD reviewed the public comments in the development of the final rule. A discussion of the comments and the resultant changes are provided as follows:

A. Need for the Rule

Comment: One respondent stated that companies and the Government (the Defense Contract Management Agency (DCMA) and the Defense Contract Audit Agency (DCAA)) have over the years been successful in articulating positions for each side to understand and resolve rate positions through negotiation either at the contract level or at the business level through a Forward Pricing Rate Agreement (FPRA). The respondents indicated the existing regulations are adequate without any further modifications to support the process.

Response: The objective of this rule is to provide guidance to contractors for the submittal of FPRPs. This rule amends the DFARS at 215.403–5 by adding instructions to contracting officers to request contractors to submit the FPRP adequacy checklist with FPRPs. This guidance is intended to ensure submission of thorough, accurate, and complete proposals, provide consistency, and communicate common expectations to prevent rework and improve the efficiency of the negotiations process.

B. Audit Timeliness

Comment: Two respondents stated that the rule does not address the issues associated with the DCAA's inability to audit industry submissions in a timely fashion. The respondents believe that the perceived issues with contractor FPRP submissions are the result of DCAA's approach to FPRP audits and are not related to the adequacy of the FPRP submissions. One respondent stated that the additional requirements imposed by the FPRP adequacy checklist would also lengthen the already prolonged DCAA audit cycle for FPRPs and further erode timeliness and usefulness of audit reports.

Response: The purpose of the FPRP adequacy checklist is to promote the submission of thorough, accurate, and complete proposals; provide consistency; and communicate common expectations to prevent rework and improve the efficiency of the negotiations process. Establishment of common expectations for contractors and the Government will promote adequate initial submissions of proposals, which will shorten the acquisition cycle making for more efficient negotiations for both contractors and the Government.

C. Incurred Cost Audits

Comment: One respondent suggested that DCAA should begin auditing the most recent incurred cost submissions to gain a thorough understanding of the contractor's operations necessary to best opine on contractor forward pricing estimates. The respondent stated that DCAA is woefully behind on the contractually required (FAR 52.216–7, Allowable Cost and Payment clause) duty to audit contractor incurred cost submissions as promptly as practical. Contractors' historical incurred costs are key inputs for estimates for FPRPs.

Response: FAR 52.216–7(d)(2)(ii) requires that ''The appropriate Government representative and the Contractor shall establish the final indirect cost rates as promptly as practical, after receipt of the Contractor's proposal.'' The purpose of the FPRP adequacy checklist is to improve the efficiency of the FPRA negotiations process. The Government employs multiple avenues to obtain an appropriate understanding about the contractor's operations. The Government has a responsibility to perform appropriate review of contractor proposals to establish well-supported negotiation positions and to negotiate effectively to wisely use taxpayer money and to ensure that contract prices are fair and reasonable to both the contractor and the Government. Taxpayers receive a direct tangible benefit from the auditing of FPRPs. Meanwhile, DCAA is working to reduce the inventory of incurred cost audits to become current.

D. Business Systems Audits

Comment: DCAA should conduct better and more accurate transaction testing. DCAA has made business system audits a low priority and appears to be only conducting them sporadically. Unable to rely on contractor business systems and coupled with not having audited recent contractor incurred cost submissions, DCAA has made detailed testing of large samples of recent incurred cost transactions a part of their FPRP audit program.

Response: DoD agrees that contractor business systems and internal controls are the first line of defense against waste, fraud, and abuse. Weak control systems increase the risk of unallowable and unreasonable costs being charged to Government contracts. However, the purpose of this rule is to provide guidance to contractors for the submittal of FPRPs. DCAA's audit approach is to design appropriate tests of details in support of the proposed forward pricing rates, not to conduct incurred cost audits within FPRP audits. DCAA is working to reduce its backlog of incurred cost audits so that the agency can conduct the audits more promptly.

E. Reliance on Outside Audits

Comment: One respondent suggested that DCAA should balance independence with efficiency. DCAA is unwilling to rely on relevant auditing and analysis by others. Citing the belief that absolute independence is required, DCAA typically will not rely on the contractor's internal audit department, other Government oversight organizations such as the Defense Contract Management Agency (DCMA), or even other DCAA auditors.

Response: In order to comply with Generally Accepted Government Auditing Standards (GAGAS), DCAA's audit opinion must be derived from the results of sufficient audit procedures performed on the underlying contractor data. In most cases, DCAA is not provided the necessary access to the

working papers supporting contractor internal audits. DCAA will work with DCMA and other contract administration offices (CAO's) to leverage the monitoring and analytical work they perform; however, DCAA cannot include CAO developed rates without applying adequate audit procedures to the underlying contractor data.

F. FPRP Adequacy Checklist Flexibility

Comment: Two respondents stated that the FPRP adequacy checklist should be more flexible to allow the Government and contractors to better explain and understand the FPRPs. The FPRP adequacy checklist does not provide for any tailoring by a company based upon the company's cost structure. Documentation necessary to audit rates at one contractor can be irrelevant to the rates at another contractor. Requiring companies to create additional documentation, much of which may be irrelevant to the FPRP and yet obligate DCAA to audit it, will not change the outcome of a rate negotiation, but is certain to create obstacles to the process.

Response: The FPRP adequacy checklist communicates common expectations for both contractors and the Government. The FPRP adequacy checklist topics are high level and generic, focused on the contractor communicating the rates proposed and their bases. Contractors provide checklist responses within the context of their accounting/estimating systems and the structure of their FPRP. The FPRP adequacy checklist is not geared to stimulate the contractor to create documentation other than the basic information that both the Government and contractor need to support and negotiate fair and reasonable rates and wisely use taxpayer monies.

Comment: One respondent stated that FPRPs should be a proposal by a company on how it is going to manage the risk of future performance. They represent forecasting future costs and the risk associated with those costs. Clearly, this formulation will vary by company and will be based on assumptions that the companies make and articulate as part of their proposals. The FPRP adequacy checklist does not take this core issue into consideration. It is generic in nature, not exhaustive, and does not account for the fact that some circumstances will not apply to a specific FPRP.

Response: The FPRP adequacy checklist is intended to be high level and generic, not exhaustive in nature, allowing each contractor to respond within the context of its proposal and estimating/accounting system structure. While a contractor will manage the risk of future costs, when the contractor is contracting with the Government there must be a basic understanding of the rates proposed and the bases of estimates so Government representatives can be good stewards of taxpayers' money when negotiating a fair and reasonable price. Where a specific FPRP adequacy checklist topic does not apply for a contractor, then that topic should be identified as ''Not Applicable.''

Comment: One respondent stated that a one size fits all FPRP adequacy checklist would not be effective to identify the appropriate information and data necessary to the Government for the audit or FPRA process because of the variety of cost elements and segment types.

Response: The FPRP adequacy checklist identifies common expectations for both the contractor and the Government with a focus on the proposed rates and the underlying bases of estimates. The goal is for the proposal to be adequate to support negotiations that will allow the Government contracting officer to ensure that the price is fair and reasonable. The Government will meet with the contractor upon receipt of an adequate proposal and, based upon the results of a walk-through meeting, identify appropriate evidence to support negotiations and audit.

G. FPRP Submittal Timing

Comment: The respondents claimed that the proposed rule creates unintended and harmful liabilities for contractors. Under the Truth in Negotiations Act (TINA), companies must provide the Government with pricing information that is current, accurate, and complete. Requiring companies to submit forward pricing rates at least 90 days in advance of their effective date directly conflicts with TINA and the False Claims Act. Intentional or knowing violation of TINA provisions are potentially false claims. In addition, key bases for estimates such as budgets or sales projections may simply not be available 90 days prior to submission of rate proposals. Beyond that, the budgetary and factual data upon which FPRPs are based (1) may simply not be available 90 days in advance, (2) may be subject to more current data, or (3) may be affected by certain large proposals that may require a resubmission of rates when a contract award would have a significant impact on bases/rates. One respondent requested a separate rule to address the requirement for submission of forward pricing rates at least 90 days in advance of the effective date of those rates, which would also address a waiver of liability/prosecution for civil or criminal penalties that might arise from compliance with the rule.

Response: Submitting FPRPs 90 days in advance of their effective date is reasonable. The parties (Government and contractor) need time to negotiate forward pricing rates prior to their effective date, which is often the start of the contractor's fiscal year. Prior to the start of their fiscal year, contractors have established strategic plans and put budgets in place to manage their businesses. The 90 day timeframe is not creating a conflict with the provisions of TINA. In accordance with FAR 42.1701, the contractor's FPRP shall include ''cost or pricing data that are accurate, complete, and current as of the date of submission'' and contractors are expected to communicate updates during the negotiation of the proposed rates. Per FAR 15.407–3, Forward pricing rate agreements, paragraph (a), ''All data submitted in connection with the FPRA, updated as necessary, form a part of the total data that the offeror certifies to be accurate, complete, and current at the time of the agreement on price for an initial contract or for a contract modification.'' Paragraph (b) states ''Conditions that may affect the agreement's validity shall be reported promptly to the ACO.'' (The ACO is the Government Administrative Contracting Officer.) It should be understood by the parties that the proposed rates are based on forecasts and contractors must provide updates whenever the validity of the agreement may be affected.

H. Incorporation of FAR Table 15–2 Into the FPRP Adequacy Checklist

Comment: A number of respondents stated that the incorporation of FAR Table 15–2 into the FPRP adequacy checklist is inappropriate. These comments included the following:

(1) The table is suited to contractor proposals for goods or services, and not to FPRPs. As a result of DCAA's application of Table 15–2, DCAA now requires significantly more data from contractors to demonstrate adequacy. This additional data is not tailored based on a risk assessment of the contractor's operations. Prior to the application of Table 15–2 to FPRPs, contractors and the Government had been more successful in achieving timely audits of contractors' FPRP submissions and negotiations of FPRAs.

(2) DoD should issue a separate rule addressing the checklist's incorporation of Table 15–2 requirements. By referencing Table 15–2 throughout, the

FPRP adequacy checklist implicitly applies Table 15–2 to FPRPs. However, the table's requirements have not been applied as such under the current FAR. The respondent maintained that FAR Table 15–2 is only required when submitting ''certified'' cost or pricing data associated with a specific pricing action subject to TINA, such as a bid or proposal for a new contract award or contract modification. The respondent suggested that any attempt to require Table 15–2 for all FPRPs must go through proper, separate, rulemaking.

(3) Many elements of the proposed FPRP adequacy checklist are irrelevant to an FPRP submission. For example, the first item on the FPRP adequacy checklist reads, ''Is there a properly completed first page of the proposal or a summary format as specified by the contracting officer?'' This corresponds to Table 15–2. The respondent further pointed out that there is no solicitation, no contract, no profit or fee, no Government property used, and CAS applicability is already readily known by both the contractor and Government.

(4) One respondent stated that a fundamental issue that the GAO raised with DCAA audits was DCAA's lack of adherence to Generally Accepted Government Auditing Standards (GAGAS). The respondent believes that in response to the GAO report, DCAA took the position that the items listed on the proposed DFARS FPRP adequacy checklist have always been a requirement of Table 15–2. The respondent does not believe that Table 15–2 is applicable to an FPRP.

Response: To promote the submission of thorough, accurate, and complete proposals, this rule is communicating common expectations, that FPRPs include basic information which identifies the proposed rates and explains the bases of estimates, and requiring that the contractors communicate the inclusion of this basic information via an FPRP adequacy checklist. The goal of the FPRP adequacy checklist is to promote the initial submission of adequate proposals and to achieve a more efficient negotiation process for establishing forward pricing rates. While a contractor will not sign a ''Certificate of Current Cost or Pricing Data'' until award of a contract (or modification) for supplies or services, FAR 42.1701(b) requires the Contracting Officer to obtain the FPRP including cost or pricing data that are current, accurate and complete. The references in the proposed rule to FAR 15.408 Table 15–2 were intended to help offerors understand the minimum criteria to ensure their FPRPs adequately comply with each submission item. However, to remove any misunderstandings of the intent and content of the table submission items, the FPRP adequacy checklist references, including references to FAR 15.408 Table 15–2, have been removed in this final rule. Furthermore, item no. 1 of the FPRP adequacy checklist is revised to identify only those specific items required on the first page of a forward pricing rate proposal.

I. Paperwork Reduction Act

Comment: One respondent claimed that DoD has not complied with its obligations under the Paperwork Reduction Act and the implementing regulations in 5 CFR part 1320.

Response: The supporting data referenced by the respondent exceeds the information collection requirements established under this rule. The Paperwork Reduction Act estimates published with the proposed rule accurately reflect the contractors' costs to fulfill the information collection requirements of this rule.

J. Public Meetings

Comment: One respondent suggested that DoD and the public should engage in an interactive process to identify the real objectives of this rule and the best methods for achieving those solutions.

Response: The purpose of the rule is to provide guidance to contractors for the submittal of FPRPs that are thorough, accurate, and complete. The rule provides for consistency of submittals and establishes common expectations for a contractor and the Government to make negotiations more efficient. A meeting is not necessary given that the objective is clear.

K. Increased Administrative Efforts and Costs

Comment: One respondent stated that the proposed FPRP adequacy checklist also includes information beyond the scope of a basis of estimate (BOE). An example is the following submission item: ''Does the proposal include a comparison of prior forecasted costs to actual results in the same format as the proposal and an explanation/analysis of any differences?'' Such data and format are not relevant to the current BOE developed by the contractor. The respondent claimed that there is no benefit to the Government from requiring the contractor to provide duplicative information that was not used in the development of the BOE. Rather, contractors will incur additional costs to meet these administrative requirements.

Two respondents stated that there are many items within the proposed FPRP adequacy checklist that would add significant time and effort to the contractor's FPRP submission as well as require additional explanations to DCAA on the adequacy of the submittal against the FPRP adequacy checklist. The respondents suggested that DoD should consider the vast amounts of paperwork and data reformatting that would be required to comply with the proposed rule. It is not just questions that have to be answered; there would be an exponential increase when the questions are applied to each forward pricing rate. If adopted the rule would create an enormous volume of paper and data for the sole purpose of DCAA audit consumption. This would be done without any requirement for timely completion of audits. These additional efforts would increase contractor administrative costs and Government audit costs which run directly contrary to DoD's Better Buying Power memoranda.

Response: The purpose of the FPRP adequacy checklist is to ensure that FPRPs are complete and well-supported, and provide an adequate basis for Government analysis and negotiation. This will assist both parties by significantly reducing the need for fact finding, and allowing for more efficient proposal analysis by the Government. The FPRP adequacy checklist identifies those elements which would typically be included in a well-supported and complete FPRP. However, the FPRP adequacy checklist itself does not mandate development of content which is not appropriate for a specific proposal. The FPRP adequacy checklist includes a column which the contractor can use to briefly explain why a specific checklist item is not applicable. It should be noted that there is no intent for a separate instance of the FPRP adequacy checklist to be completed for each proposed rate. Rather, the contractor will submit a single completed FPRP adequacy checklist in support of the entire FPRP.

Forward pricing rates are projections of the future. It is fundamental to understand how accurately a contractor has been able to estimate past periods. A basic requirement for proposals for both supplies/services and FPRAs is the presentation of trend and budgetary data. The elements commented as not being relevant to the current BOE are important for Government representatives to consider when negotiating rates. The FPRP adequacy checklist recognizes that the support for out-year rates may be less detailed than for the base year, and/or that the estimating methodology for out-year rates may be different from the base

year. The FPRP adequacy checklist merely leads the contractor to clearly document the estimating approaches used, the escalation applied, etc., so that the proposal submitted to the Government provides an adequate basis for analysis and negotiation.

Comment: One respondent stated that companies generally support forward pricing rates for periods ranging from one to ten years depending on the markets in which they compete. Generally, a five year period is customary in an FPRP. Checklists such as the one being proposed have a tendency to be applied literally by regulators without the benefit of the application of professional judgment. For a shipbuilding contractor that may have a ten year pricing window, the fidelity of the pricing estimates at the back end of the pricing window are not as robust as those in earlier years. This FPRP adequacy checklist would have contractors generate paper purely for the sake of complying with the checklist, without adding value to the acquisition process.

Response: Both contractors and Government representatives are expected to exercise professional judgment in using the FPRP adequacy checklist during the process. The contractor is expected to construct its proposal as fits its business scenario, explaining the bases and derivation of the rates for each proposed period and the underlying assumptions. Experience with FPRPs has demonstrated that out years are not well-supported even with the underlying strategic decisions which affected the pool and base estimates.

L. FPRP Risk Assessment

Comment: One respondent stated that, at their core, FPRPs represent the degree of risk that a company is willing to accept in proposals for pricing rates. They are developed using forecasts of future costs in which judgment is applied to address risk. That risk is subjective and will vary significantly by company and market conditions. The degree of risk is addressed by the assumptions that contractors articulate in their FPRP. The FPRP adequacy checklist misses the entire point of the contractors' risk assessment.

Response: The purpose of the FPRP adequacy checklist focuses on whether the FPRP is adequate with the proposed rates and the underlying bases of estimate identified and ready to be a foundation for negotiation with the Government. From this point the Government will engage with the contractor for a more thorough understanding of underlying contractor assumptions and the risk the contractor has designed. While some checklist items address assumptions/risk to some degree; the FPRP adequacy checklist is not designed to go into this level of detail. The checklist is designed to address risk at a higher level. Contractors' assignment of risk in estimating future cost is subjective depending on company and market conditions. Contractors can use their own judgment and risk factors to develop their future cost forecasts. However, the valuation of the risk or estimate should be based on available data and documented assumptions.

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 is not a significant regulatory action and, therefore, was not subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

IV. Regulatory Flexibility Act

A final regulatory flexibility analysis has been prepared consistent with the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.,* and is summarized as follows:

This rule amends the DFARS at 215.403–5 by adding instructions to contracting officers to request contractors to submit the FPRP adequacy checklist with FPRPs. The objective is to provide guidance to contractors for the submittal of FPRPs.

No significant issues were raised by the public comments in response to the initial regulatory flexibility analysis published with the proposed rule.

DoD does not expect this 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 only a small percentage of Government contractors are requested to submit an FPRP, as set forth at FAR 42.1701(a). The Government will ask only those contractors with a significant volume of Government contracts to submit such proposals.

The rule does not duplicate, overlap, or conflict with any other Federal rules.

V. Paperwork Reduction Act

The rule contains information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C chapter 35). OMB has cleared this information collection under OMB Control Number 0704–0497, titled DFARS part 215, Negotiation.

List of Subjects in 48 CFR Part 215

Government procurement.

Manuel Quinones,

Editor, Defense Acquisition Regulations System.

Therefore, 48 CFR part 215 is amended as follows:

PART 215—CONTRACTING BY NEGOTIATION

■ 1. The authority citation for 48 CFR part 215 continues to read as follows:

Authority: 41 U.S.C. 1303 and 48 CFR chapter 1.

■ 2. Add 215.403–5 to read as follows:

215.403–5 Instructions for submission of certified cost or pricing data and data other than certified cost or pricing data.

(b)(3) For contractors following the contract cost principles in FAR subpart 31.2, Contracts With Commercial Organizations, pursuant to the procedures in FAR 42.1701(b), the administrative contracting officer shall require contractors to comply with the submission items in Table 215.403–1 in order to ensure that their forward pricing rate proposal is submitted in an acceptable form in accordance with FAR 15.403–5(b)(3). The contracting officer should request that the proposal be submitted to the Government at least 90 days prior to the proposed effective date of the rates. To ensure the proposal is complete, the contracting officer shall request that the contractor complete the Contractor Forward Pricing Rate Proposal Adequacy Checklist at Table 215.403–1, and submit it with the forward pricing rate proposal.

Table 215.403–1—Contractor Forward Pricing Rate Proposal Adequacy Checklist

Complete the following checklist, providing the location of requested information, or an explanation of why the requested information is not provided, and submit it with the forward pricing rate proposal.

CONTRACTOR FORWARD PRICING RATE PROPOSAL ADEQUACY CHECKLIST

Submission item	Proposal page No. (if applicable)	If not provided, explain (may use continuation pages)
General Instructions		
1. Is there a properly completed first page of the proposal as specified by the contracting officer? Initial proposal elements include: a. Name and address of contractor; b. Name and telephone number of point of contact; c. Period covered; d. The page of the proposal that addresses— 1. Whether your organization is subject to cost accounting standards (CAS); 2. Whether your organization has submitted a CAS Disclosure Statement, and whether it has been determined adequate; 3. Whether you have been notified that you are or may be in noncompliance with your Disclosure Statement or CAS (other than a noncompliance that the cognizant Federal agency official had determined to have an immaterial cost impact), and if yes, an explanation; 4. Whether any aspect of this proposal is inconsistent with your disclosed practices or applicable CAS, and, if so, an explanation; and whether the proposal is consistent with established estimating and accounting principles and procedures and FAR part 31, Cost Principles, and, if not, an explanation; e. The following statement: "This forward pricing rate proposal reflects our estimates, as of the date of submission entered in (f) below and conforms with Table 215.403–1. By submitting this proposal, we grant the Contracting Officer and authorized representative(s) the right to examine those records, which include books, documents, accounting procedures and practices, and other data, regardless of type and form or whether such supporting information is specifically referenced or included in the proposal as the basis for each estimate, that will permit an adequate evaluation of the proposed rates and factors."; f. Date of submission; and g. Name, title, and signature of authorized representative.	Proposal Cover Page.	
2. Summary of proposed direct and indirect rates and factors, including the proposed pool and base costs for each proposed indirect rate and factor.	Immediately following the proposal cover page.	
3. Table of Contents or index. a. Does the proposal include a table of contents or index identifying and referencing all supporting data accompanying or identified in the proposal? b. For supporting documentation not provided with the proposal, does the basis of each estimate in the proposal include the location of the documentation and the point of contact (custodian) name, phone number, and email address? Does the proposal disclose known or anticipated changes in business activities or processes that could materially impact the proposed rates (if not previously provided)? For example—		
4. a. Management initiatives to reduce costs; b. Changes in management objectives as a result of economic conditions and increased competitiveness; c. Changes in accounting policies, procedures, and practices including (i) reclassification of expenses from direct to indirect or vice versa; (ii) new methods of accumulating and allocating indirect costs and the related impact; and (iii) advance agreements; d. Company reorganizations (including acquisitions or divestitures); e. Shutdown of facilities; or f. Changes in business volume and/or contract mix/type.		
5. Do proposed costs based on judgmental factors include an explanation of the estimating processes and methods used, including those used in projecting from known data?		
6. Does the proposal show trends and budgetary data? Does the proposal provide an explanation of how the data, as well as any adjustments to the data, were used?		
7. The proposal should reconcile to the supporting data referenced. If the proposal does not reconcile to the supporting data referenced, identify applicable page(s) and explain.		
8. The proposal should be internally consistent. If the proposal is not internally consistent, identify applicable page(s) and explain.		
Direct Labor		
Direct Labor Rates Methodology and Basis of Each Estimate		
9. a. Does the proposal include an explanation of the methodology used to develop the direct labor rates and identify the basis of each estimate? b. Does the proposal include or identify the location of the supporting documents for the base-period labor rates (e.g., payroll records)?		
10. Does the proposal identify escalation factors for the out-year labor rates, the costs to which escalation is applicable, and the basis of each factor used?		

CONTRACTOR FORWARD PRICING RATE PROPOSAL ADEQUACY CHECKLIST—Continued

Submission item	Proposal page No. (if applicable)	If not provided, explain (may use continuation pages)
11. Does the proposal identify planned or anticipated changes in the composition of labor rates, labor categories, union agreements, headcounts, or other factors that could significantly impact the direct labor rates?		
Indirect Rates (Fringe, Overhead, G&A, etc.)		
12. Indirect Rates Methodology and Basis of Each Estimate. a. Does the proposal identify the basis of each estimate and provide an explanation of the methodology used to develop the indirect rates? b. Does the proposal include or identify the location of the supporting documents for the proposed rates? 13. Does the proposal identify indirect expenses by burden center, by cost element, by year (including any voluntary deletions, if applicable) in a format that is consistent with the accounting system used to accumulate actual expenses? 14. Does the proposal identify any contingencies? 15. Does the proposal identify planned or anticipated changes in the nature, type, or level of indirect costs, including fringe benefits? 16. Does the proposal identify corporate, home office, shared services, or other incoming allocated costs and the source for those costs, including location and point of contact (custodian) name, phone number, and email address? 17. Does the proposal separately identify all intermediate cost pools and provide a reconciliation to show where the costs will be allocated? 18. Does the proposal identify the escalation factors used to escalate indirect costs for the out-years, the costs to which escalation is applicable, and the basis of each factor used? 19. Does the proposal provide details of the development of the allocation base? 20. Does the proposal include or reference the supporting data for the allocation base such as program budgets, negotiation memoranda, proposals, contract values, etc.? 21. Does the proposal identify how the proposed allocation bases reconcile with its long range plans, strategic plan, operating budgets, sales forecasts, program budgets, etc.?		
Cost of Money (COM)		
22. Cost of Money. a. Are Cost of Money rates submitted on Form CASB–CMF, with the Treasury Rate used to compute COM identified and a summary of the net book value of assets, identified as distributed and non-distributed? b. Does the proposal identify the support for the Form CASB–CMF, for example, the underlying reports and records supporting the net book value of assets contained in the form?		
Other		
23. Does the proposal include a comparison of prior forecasted costs to actual results in the same format as the proposal and an explanation/analysis of any differences? 24. If this is a revision to a previous rate proposal or a forward pricing rate agreement, does the new proposal provide a summary of the changes in the circumstances or the facts that the contractor asserts require the change to the rates?		

[FR Doc. 2014–28811 Filed 12–10–14; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Parts 225 and 236

RIN 0750–AI33

Defense Federal Acquisition Regulation Supplement: Use of Military Construction Funds in Countries Bordering the Arabian Sea (DFARS Case 2014–D016)

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Final rule.

SUMMARY: DoD has adopted as final, without change, an interim rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to implement sections of the Military Construction and Veterans Affairs, and Related Agencies Appropriations Act, 2014, that restricts use of military construction funds in various countries, including countries bordering the Arabian Sea.

DATES: Effective December 11, 2014.

FOR FURTHER INFORMATION CONTACT: Ms. Amy G. Williams, telephone 571–372–6106.

SUPPLEMENTARY INFORMATION:

I. Background

DoD published an interim rule in the **Federal Register** at 79 FR 44314 on July 31, 2014, to implement sections of the Military Construction and Veterans Affairs, and Related Agencies Appropriations Act, 2014, that restricts use of military construction funds in various countries, including countries bordering the Arabian Sea. Since 1997, sections 111 and 112 of the annual military construction appropriations acts restrict use of military construction funds for acquisitions exceeding certain dollar thresholds of architect-engineer services and military construction to be performed in certain countries. With some exceptions, these restrictions require award to a U.S. firm or provide a preference for award to a U.S. firm.

One respondent submitted a public comment in response to the interim rule.

II. Discussion and Analysis

DoD reviewed the public comment in the development of the final rule. The comment did not result in any changes in the final rule. A discussion of the comment is provided, as follows:

Comment: The respondent disagreed with the substitution of ''Arabian Sea'' for the ''Arabian Gulf'' for the following reasons:

- The respondent viewed the rule as a ''degradation of the intent of the law.''
- The respondent viewed the rule as harmful to all U.S. businesses, small and large, interested in construction projects in countries that border the Arabian Gulf, due to loss of the 20 percent preference.

The respondent suggested extension of the preferences for U.S. businesses when awarding military construction or architect-engineer contracts in countries bordering the Arabian Gulf to contracts in countries bordering the Arabian Sea.

Response: The interim rule was issued in order to comply with the law. For several years, the restrictions in the annual military construction appropriations acts have applied the use of military construction funds in countries bordering the Arabian Sea, not the Arabian Gulf. The law does not provide the option to provide the 20 percent preference to U.S. firms performing construction projects in countries that border the Arabian Gulf.

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 is not a significant regulatory action and, therefore, was not subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

IV. Regulatory Flexibility Act

A final regulatory flexibility analysis has been prepared consistent with the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.,* and is summarized as follows:

This rule is necessary to implement the preference for award only to U.S. firms when awarding certain military construction and architect-engineer contracts to be performed in countries bordering the Arabian Sea.

The objective of this rule is to implement sections 111 and 112 of the Military Construction and Veterans Affairs, and Related Agencies Appropriations Act, 2014 (Division J of Pub. L. 113–76). This rule revises the preference for award to U.S. firms of military construction contracts that have an estimated value greater than $1,000,000 and the restriction requiring award only to U.S. firms for architect-engineer contracts that have an estimated value greater than $500,000, to make it applicable to contracts to be performed in a country bordering the Arabian Sea, rather than a country bordering the Arabian Gulf (as required in earlier statutes).

One respondent stated that the rule would cause harm to U.S. small business entities engaged in construction projects in countries bordering the Arabian Gulf, due to loss of the 20 percent preference. There was no change made to the rule as the result of this comment, because the law no longer provides a preference for U.S. businesses (small or large) performing construction projects in countries bordering the Arabian Gulf. The law changed the applicability of the preference from military construction projects in countries bordering the Arabian Gulf to military construction projects bordering the Arabian Sea.

This will only apply to a very limited number of small entities—those entities that submit offers in response to solicitations for military construction contracts that have an estimated value greater than $1,000,000 and architect-engineer contracts that have an estimated value greater than $500,000, when the contracts are to be performed in countries bordering the Arabian Sea.

There is a requirement for offerors to indicate in their offer whether they are a U.S. firm.

This rule does not impose any significant economic impact on small firms. The offeror must represent if it is a U.S. firm, but in return is granted a preference. DoD did not identify any alternatives that could reduce the burden and still meet the objectives of the rule.

V. Paperwork Reduction Act

The rule does not impose any new information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. chapter 35). However, it modifies the prescription for use of the provision at DFARS 252.236–7010, Overseas Military Construction—Preference for United States Firms, currently approved under OMB Clearance 0704–0255, Defense Federal Acquisition Regulation Supplement (DFARS) Part 236, Construction and Architect-Engineer Contracts, an amount of less than 8 hours. Any change in the burden hours due to the changed prescription is negligible.

List of Subjects in 48 CFR Parts 225 and 236

Government procurement.

Manuel Quinones,

Editor, Defense Acquisition Regulations System.

■ Accordingly, the interim rule amending 48 CFR part 225 and 236, which was published at 79 FR 44314 on July 31, 2014, is adopted as a final rule without change.

[FR Doc. 2014–28815 Filed 12–10–14; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Parts 225 and 252

RIN 0750–AI47

Defense Federal Acquisition Regulation Supplement: Elimination of Quarterly Reporting of Actual Performance Outside the United States (DFARS Case 2015–D001)

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Final rule.

SUMMARY: DoD is issuing a final rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to eliminate the requirement for quarterly reporting of actual contract performance outside the United States.

DATES: Effective December 11, 2014.

FOR FURTHER INFORMATION CONTACT: Ms. Amy G. Williams, telephone 571–372–6106.

SUPPLEMENTARY INFORMATION:

I. Background

As part of a DFARS streamlining initiative, DoD is eliminating the requirement for quarterly reporting of actual contract performance outside the United States (DFARS 252.225–7006, Quarterly Reporting of Actual Contract Performance Outside the United States) and associated text in DFARS subpart 225.72. This report is not required by statute.

DoD is retaining the provision at 252.225–7003, Report of Intended Performance Outside the United States and Canada—Submission with Offer, and the clause at 252.225–7004, Report of Intended Performance Outside the United States and Canada—Submission After Award, both of which are required by 10 U.S.C. 2410g.

II. Publication of This Final Rule for Public Comment Is Not Required by Statute

''Publication of proposed regulations'', 41 U.S.C. 1707, is the statute which applies to the publication of the Federal Acquisition Regulation. Paragraph (a)(1) of the statute requires that a procurement policy, regulation, procedure or form (including an amendment or modification thereof) must be published for public comment if it relates to the expenditure of appropriated funds, and has either a significant effect beyond the internal operating procedures of the agency issuing the policy, regulation, procedure or form, or has a significant cost or administrative impact on contractors or offerors. This final rule is not required to be published for public comment, because this rule just eliminates obsolete text.

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 is not a significant regulatory action and, therefore, was not subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

IV. Regulatory Flexibility Act

The Regulatory Flexibility Act does not apply to this rule because this final rule does not constitute a significant DFARS revision within the meaning of FAR 1.501–1, and 41 U.S.C. 1707 does not require publication for public comment.

V. Paperwork Reduction Act

This rule slightly reduces the information collection requirements currently approved under OMB Control Number 0704–0229, titled Defense Federal Acquisition Regulation Supplement (DFARS) Part 225, Foreign Acquisition, in accordance with the Paperwork Reduction Act (44 U.S.C. chapter 35). Removing the requirement for the DFARS 252.225–7006 quarterly reports reduced the burden hours approved by OMB in 0704–0229 by 225 hours, from 64,256 hours to 64,031 hours. An OMB Form 83–C Change Request has been processed by OMB to reduce the burden accordingly.

List of Subjects in 48 CFR Parts 225 and 252

Government procurement.

Manuel Quinones,

Editor, Defense Acquisition Regulations System.

Therefore, 48 CFR parts 225 and 252 are amended as follows:

■ 1. The authority citation for 48 CFR parts 225 and 252 continues to read as follows:

Authority: 41 U.S.C. 1303 and 48 CFR chapter 1.

PART 225—FOREIGN ACQUISITION

■ 2. Revise section 225.7201 to read as follows:

225.7201 Policy.

10 U.S.C. 2410g requires offerors and contractors to notify DoD of any intention to perform a DoD contract outside the United States and Canada when the contract could be performed inside the United States or Canada.

225.7204 [Amended]

■ 3. Amend section 225.7204 by—

■ a. In paragraph (a), adding the word ''and'' after the semicolon;

■ b. In paragraph (b), removing the semicolon and adding a period; and

■ c. Removing paragraph (c).

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

252.225–7006 [Removed and Reserved]

■ 4. Remove and reserve 252.225–7005.

[FR Doc. 2014–28816 Filed 12–10–14; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

48 CFR Parts 235, 237, and 252

RIN 0750–AI22

Defense Federal Acquisition Regulation Supplement: Animal Welfare (DFARS Case 2013–D038)

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Final rule.

SUMMARY: DoD is issuing a final rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to comply with the Department of Defense Instruction that addresses the use of animals in DoD programs.

DATES: Effective December 11, 2014.

FOR FURTHER INFORMATION CONTACT: Ms. Janetta Brewer, telephone 571–372–6104.

SUPPLEMENTARY INFORMATION:

I. Background

DoD published a proposed rule in the **Federal Register** at 79 FR 35717 on June 24, 2014, to revise DFARS 235.072, subpart 237.1, and the clause at 252.235–7002, Animal Welfare, to be consistent with the Department of Defense Instruction (DoDI) 3216.01 entitled ''Use of Animals in DoD Programs,'' which governs DoD supported research, development, test, and evaluation or training that uses vertebrate animals, and the acquisition of animals. One respondent submitted two comments on the proposed rule.

II. Discussion and Analysis

DoD reviewed the public comments in the development of the final rule, and one change was made. A discussion of the comments is provided below.

Comment: The respondent recommended that DFARS section 237.17X be revised to prescribe use of the clause at 252.235–7002.

Response: The clause at 252.235–7002, Animal Welfare, is prescribed

within section 235.072. FAR drafting conventions prohibit a clause from being prescribed in more than one section. Section 237.17X, however, is amended to provide a cross reference to the clause and its prescription. Section 237.17X is 237.175 in the final rule.

Comment: The respondent recommended that the clause at DFARS 252.235–7002, Animal Welfare, be revised to read that it has been prescribed in sections 235.072(a) and 237.17X.

Response: No changes were made in response to this comment. As discussed in the response to the prior comment, FAR drafting conventions prohibit a clause from being prescribed in more than one section.

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 is not a significant regulatory action and, therefore, was not subject to review under Section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

IV. Regulatory Flexibility Act

DoD has prepared a Final Regulatory Flexibility Analysis (FRFA) consistent with the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.* The FRFA is summarized as follows:

DoD is issuing a final rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to comply with the Department of Defense Instruction (DoDI) that addresses the use of animals in DoD programs. DoDI 3216.01, Use of Animals in DoD Programs, governs DoD supported research, development, test, and evaluation or training that uses vertebrate animals, and the acquisition of animals.

The data obtained from the Office of Assistant Secretary of Defense for Research Development Animal Research Development Test & Evaluation Protection Programs reflect an estimate of 50 new DoD research, development, test, and evaluation contracts awarded in Fiscal Year 2012 that involved animal testing. Forty-eight of these contracts were awarded to small business entities, which could be impacted by this rule. However, any cost burden caused by this rule will be outweighed by the effect of the rule preventing cruelty to animals.

No public comments were received in response to the initial regulatory flexibility analysis published in the proposed rule.

The rule does not contain any reporting or recordkeeping requirements and does not require contractors to expend significant cost or effort. There are no known significant alternatives to the rule that would further minimize any economic impact of the rule on small entities.

V. Paperwork Reduction Act

The rule does not contain any information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. chapter 35).

List of Subjects in 48 CFR Parts 235, 237, and 252

Government procurement.

Manuel Quinones,

Editor, Defense Acquisition Regulations System.

Therefore, 48 CFR parts 235, 237, and 252 are amended as follows:

■ 1. The authority citation for 48 CFR parts 235, 237, and 252 continues to read as follows:

Authority: 41 U.S.C. 1303 and 48 CFR chapter 1.

PART 235—RESEARCH AND DEVELOPMENT CONTRACTING

■ 2. In section 235.072, revise paragraph (a) to read as follows:

235.072 Additional contract clauses.

(a) Use a clause substantially the same as the clause at 252.235–7002, Animal Welfare, in solicitations and contracts involving research, development, test, and evaluation or training that use live vertebrate animals.

* * * * *

PART 237—SERVICE CONTRACTING

■ 3. Add section 237.175 to read as follows:

237.175 Training that uses live vertebrate animals.

Use the clause at 252.235–7002, Animal Welfare, as prescribed in 235.072(a), when contracting for training that will use live vertebrate animals.

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 4. Revise section 252.235–7002 to read as follows:

252.235–7002 Animal Welfare.

As prescribed in 235.072(a), use the following clause:

Animal Welfare (Dec 2014)

(a)(1) The Contractor shall register its research, development, test, and evaluation or training facility with the Secretary of Agriculture in accordance with 7 U.S.C. 2136 and 9 CFR subpart C, and section 2.30, unless otherwise exempt from this requirement by meeting the conditions in 7 U.S.C. 2136 and 9 CFR parts 1 through 4 for the duration of the activity. The Contractor shall have its proposed animal use approved in accordance with Department of Defense Instruction (DoDI) 3216.01, Use of Animals in DoD Programs, by a DoD Component Headquarters Oversight Office. The Contractor shall furnish evidence of such registration and approval to the Contracting Officer before beginning work under this contract.

(2) The Contractor shall make its animals, and all premises, facilities, vehicles, equipment, and records that support animal care available during business hours and at other times mutually agreeable to the Contractor and the United States Department of Agriculture Office of Animal and Plant Health Inspection Service (USDA/APHIS) representative, personnel representing the DoD component oversight offices, as well as the Contracting Officer, to ascertain that the Contractor is compliant with 7 U.S.C. 2131–2159 and 9 CFR parts 1 through 4.

(b) The Contractor shall acquire animals in accordance with DoDI 3216.01, current at time of award (*http://www.dtic.mil/whs/directives/corres/pdf/321601p.pdf*).

(c) The Contractor agrees that the care and use of animals will conform with the pertinent laws of the United States, regulations of the Department of Agriculture, and policies and procedures of the Department of Defense (see 7 U.S.C. 2131 *et seq.,* and 9 CFR subchapter A, parts 1 through 4, DoDI 3216.01, Army Regulation 40–33/SECNAVINST 3900.38C/AFMAN 40–401(I)/DARPAINST 18/USUHSINST 3203). The Contractor shall also comply with DoDI 1322.24, Medical Readiness Training, if this contract includes acquisition of training.

(d) The Contracting Officer may immediately suspend, in whole or in part, work and further payments under this contract for failure to comply with the requirements of paragraphs (a) through (c) of this clause.

(1) The suspension will stay in effect until the Contractor complies with the requirements.

(2) Failure to complete corrective action within the time specified by the Contracting Officer may result in termination of this contract and, if applicable, removal of the Contractor's name from the approved vendor list for live animals used in medical training.

(e) The Contractor may request registration of its facility by contacting USDA/APHIS/AC,

4700 River Road, Unit 84, Riverdale, MD 20737–1234, or via the APHIS Animal Care Web site at: *http://www.aphis.usda.gov/wps/portal/aphis/ourfocus/animalwelfare.*

(f) The Contractor shall include the substance of this clause, including this paragraph (f), in all subcontracts involving research, development, test, and evaluation or training that use live vertebrate animals.

(End of clause)

[FR Doc. 2014–28812 Filed 12–10–14; 8:45 am]

BILLING CODE 5001–06–P

Proposed Rules

Federal Register

Vol. 79, No. 238

Thursday, December 11, 2014

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

DEPARTMENT OF ENERGY

10 CFR Part 430

[Docket No. EERE–2013–BT–STD–0051]

RIN 1904–AD09

Energy Efficiency Program for Consumer Products: Energy Conservation Standards for General Service Lamps: Public Meeting and Availability of the Preliminary Technical Support Document

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Notice of public meeting and availability of preliminary technical support document.

SUMMARY: The U.S. Department of Energy (DOE) will hold a public meeting to discuss and receive comments on the preliminary analysis it has conducted for purposes of establishing energy conservation standards for general service lamps. The meeting will cover the analytical framework, models, and tools that DOE is using to evaluate potential standards for this product; the results of preliminary analyses performed by DOE for this product; the potential energy conservation standard levels derived from these analyses that DOE could consider for this product; and any other issues relevant to the development of energy conservation standards for general service lamps. In addition, DOE encourages written comments on these subjects. To inform interested parties and to facilitate this process, DOE has prepared an agenda, a preliminary technical support document (TSD), and briefing materials, which are available on the DOE Web site at: *http://www1.eere.energy.gov/buildings/appliance_standards/rulemaking.aspx/ruleid/83.*

DATES: DOE will hold a public meeting on January 20, 2015, from 9 a.m. to 5 p.m., in Washington, DC. Additionally, DOE plans to allow for participation in the public meeting via webinar. DOE will accept comments, data, and other information regarding this rulemaking before or after the public meeting, but no later than February 9, 2015. See section IV, ''Public Participation,'' of this notice of public meeting (NOPM) for details.

ADDRESSES: The public meeting will be held at the U.S. Department of Energy, Forrestal Building, Room 8E–089, 1000 Independence Avenue SW., Washington, DC 20585–0121.

Interested persons may submit comments, identified by docket number EERE–2013–BT–STD–0051 and/or Regulation Identification Number (RIN) 1904–AD09, by any of the following methods:

- *Federal eRulemaking Portal: www.regulations.gov.* Follow the instructions for submitting comments.
- *Email: GSL2013STD0051@ee.doe.gov.* Include the docket number EERE–2013–BT–STD–0051 and/or RIN 1904–AD09 in the subject line of the message.
- *Mail:* Ms. Brenda Edwards, U.S. Department of Energy, Building Technologies Program, Mailstop EE–2J, 1000 Independence Avenue SW., Washington, DC 20585–0121. If possible, please submit all items on a compact disc (CD), in which case it is not necessary to include printed copies. [Please note that comments and CDs sent by mail are often delayed and may be damaged by mail screening processes.]
- *Hand Delivery/Courier:* Ms. Brenda Edwards, U.S. Department of Energy, Building Technologies Program, 950 L'Enfant Plaza SW., Suite 600, Washington, DC 20024. Telephone (202) 586–2945. If possible, please submit all items on CD, in which case it is not necessary to include printed copies.

Docket: The docket is available for review at *www.regulations.gov,* including **Federal Register** notices, framework documents, public meeting attendee lists and transcripts, comments, and other supporting documents/materials. All documents in the docket are listed in the *www.regulations.gov* index. However, not all documents listed in the index may be publicly available, such as information that is exempt from public disclosure.

The rulemaking Web page can be found at: *http://www1.eere.energy.gov/buildings/appliance_standards/rulemaking.aspx/ruleid/83.* This Web page contains a link to the docket for this notice on the regulation.gov site. The regulations.gov Web page contains instructions on how to access all documents in the docket, including public comments.

For detailed instructions on attending the meeting and submitting comments and for additional information on the rulemaking process, see section IV, ''Public Participation,'' of this document. For further information on how to submit a comment, review other public comments and the docket, or participate in the public meeting, contact Ms. Brenda Edwards at (202) 586–2945 or by email: *Brenda.Edwards@ee.doe.gov.*

FOR FURTHER INFORMATION CONTACT: Ms. Lucy deButts, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies, EE–2J, 1000 Independence Avenue SW., Washington, DC 20585–0121. Telephone: (202) 287–1604. Email: *GSL@ee.doe.gov.*

Or visit DOE's general service lamps Web page at *http://www1.eere.energy.gov/buildings/appliance_standards/rulemaking.aspx/ruleid/83.* for information about any existing standards and test procedures, and the history and impacts of previous DOE regulatory actions, for this category of products.

In the Office of the General Counsel, contact Ms. Celia Sher, U.S. Department of Energy, Office of the General Counsel, GC–71, 1000 Independence Avenue SW., Washington, DC 20585–0121. Telephone: (202) 287–6122. Email: *Celia.Sher@hq.doe.gov.*

For information on how to submit or review public comments and on how to participate in the public meeting, contact Ms. Brenda Edwards, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Program, EE–2J, 1000 Independence Avenue SW., Washington, DC 20585–0121. Telephone (202) 586–2945. Email: *Brenda.Edwards@ee.doe.gov.*

SUPPLEMENTARY INFORMATION:

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V. Approval of the Office of the Secretary

I. Statutory Authority

Title III, Part B [1] of the Energy Policy and Conservation Act of 1975, as amended, (EPCA or the Act), Pub. L. 94–163 (42 U.S.C. 6291–6309, as codified) sets forth a variety of provisions designed to improve energy efficiency and established the Energy Conservation Program for Consumer Products Other Than Automobiles, a program covering most major household appliances (collectively referred to as ''covered products'').[2] Subsequent amendments expanded Title III of EPCA to include additional consumer products, including GSLs—the products that are the focus of this document. In particular, amendments to EPCA in the Energy Independence and Security Act of 2007 (EISA) directed DOE to conduct two rulemaking cycles to evaluate energy conservation standards for GSLs. (42 U.S.C. 6295(i)(6)(A)–(B))

DOE is required to consider standards for general service lamps that: (1) Achieve the maximum improvement in energy efficiency that is technologically feasible and economically justified; and (2) result in significant conservation of energy. (42 U.S.C. 6295(o)(2)(A) and (o)(3)(B)) To determine whether a proposed standard is economically justified, DOE will, after receiving comments on the proposed standard, determine whether the benefits of the standard exceed its burdens to the greatest extent practicable, using the following seven factors:

1. The economic impact of the standard on manufacturers and consumers of products subject to the standard;

2. The savings in operating costs throughout the estimated average life of the covered products in the type (or class) compared to any increase in the price, initial charges, or maintenance expenses for the covered products which are likely to result from the standard;

3. The total projected amount of energy savings likely to result directly from the standard;

4. Any lessening of the utility or the performance of the covered products likely to result from the standard;

5. The impact of any lessening of competition, as determined in writing by the Attorney General, that is likely to result from the standard;

6. The need for national energy conservation; and

7. Other factors the Secretary of Energy considers relevant. (42 U.S.C. 6295(o)(2)(B)(i))

DOE also adheres to additional statutory requirements of general applicability for prescribing new or amended standards set forth in other relevant sections of EPCA.

II. Rulemaking for General Service Lamps

A. Background

As mentioned in the previous section, amendments to EPCA in EISA directed DOE to conduct two rulemaking cycles to evaluate energy conservation standards for GSLs. (42 U.S.C. 6295(i)(6)(A)–(B)) For the first rulemaking cycle, EPCA, as amended by EISA, directs DOE to initiate a rulemaking no later than January 1, 2014 to evaluate standards for GSLs and determine whether exemptions for certain incandescent lamps should be maintained or discontinued. (42 U.S.C. 6295(i)(6)(A)(i)) The scope of the rulemaking is not limited to incandescent lamp technologies. (42 U.S.C. 6295(i)(6)(A)(ii)) The EISA amendments to EPCA further require that if standards are to be established for GSLs, a final rule must be published by January 1, 2017 with a compliance date at least 3 years after the date on which the final rule is published. (42 U.S.C. 6295(i)(6)(A)(iii)) Additionally, the requirements direct DOE to consider phased-in compliance dates based on the impact of amending standards on manufacturers, retiring and repurposing existing equipment, stranded investments, labor contracts, workers, raw materials, and time needed to revise sales and marketing strategies. (42 U.S.C. 6295(i)(6)(A)(iv))

Further, for this first cycle of rulemaking, the EISA amendments provide that DOE must consider a minimum standard of 45 lumens per watt (lm/W). (42 U.S.C. 6295(i)(6)(A)(ii)) If DOE fails to meet the requirements of 42 U.S.C. 6295(i)(6)(A)(i)–(iv) or the final rule from the first rulemaking cycle does not produce savings greater than or equal to the savings from a minimum efficacy standard of 45 lm/W, sales of GSLs that do not meet the minimum 45 lm/W standard beginning on January 1, 2020 will be prohibited. (42 U.S.C. 6295(i)(6)(A)(v)) Additionally, state preemption requirements are specified for California and Nevada. Namely, beginning January 1, 2018, no provision of law could preclude these states from adopting: (1) A final rule adopted in accordance with 42 U.S.C. 6295(i)(6)(A)(i)–(iv); (2) the minimum efficacy standard of the backstop requirement (45 lm/W) if no final rule was adopted; or (3) for the state of California, any California regulations related to the covered products adopted pursuant to State statute in effect as of the date of enactment of EISA. 42 U.S.C. 6295(i)(6)(A)(vi)

The EISA-prescribed amendments direct DOE to initiate a second rulemaking cycle by January 1, 2020 to determine whether standards in effect for general service incandescent lamps (GSILs) should be amended with more stringent requirements and if the exemptions for certain incandescent lamps should be maintained or discontinued. (42 U.S.C. 6295(i)(6)(B)(i)) For this second review of energy conservation standards, the scope is not limited to incandescent lamp technologies. (42 U.S.C. 6295(i)(6)(B)(ii)) The EISA amendments require that if standards are to be amended for GSILs, a final rule must be published by January 1, 2022 with a compliance date at least 3 years after the date on which the final rule is published. (42 U.S.C. 6295(i)(6)(B)(iii)) These amendments also direct DOE to consider phased-in effective dates for the second round of review based on the impact of amending standards on manufacturers, retiring and repurposing existing equipment, stranded investments, labor contracts, workers, raw materials, and time needed to revise sales and marketing strategies. (42 U.S.C. 6295(i)(6)(B)(iv))

Additionally, this rulemaking satisfies the requirements under 42 U.S.C 6295(m)(1) for DOE to review the existing standards for medium base compact fluorescent lamps (MBCFLs) as compact fluorescent lamps are included in the definition of GSL. The Energy Policy Act of 2005 (EPAct 2005) amended EPCA by establishing energy conservation standards for MBCFLs. Under 42 U.S.C 6295(m)(1), within 6 years after issuance of any final rule establishing or amending a standard, DOE is required to publish a notice determining whether to amend such standards. If DOE determines that amendment is warranted, DOE must also issue a notice of proposed rulemaking including new proposed

[1] For editorial reasons, upon codification in the U.S. Code, Part B was re-designated Part A.

[2] All references to EPCA in this document refer to the statute as amended through the American Energy Manufacturing Technical Corrections Act (AEMTCA), Public Law 112–210 (Dec. 18, 2012).

energy conservation standards by that same date. (42 U.S.C. 6295(m)(l))

B. Current Rulemaking Process

In initiating this rulemaking, DOE prepared a Framework Document, ''Energy Conservation Standards Rulemaking Framework Document for General Service Lamps,'' which describes the procedural and analytical approaches DOE anticipates using to evaluate energy conservation standards for general service lamps. This document is available at: *http://www1.eere.energy.gov/buildings/appliance_standards/rulemaking.aspx/ruleid/83.*

DOE held a public meeting on January 14, 2014, at which it described the various analyses DOE would conduct as part of the rulemaking, such as the engineering analysis, the life-cycle cost (LCC) and payback period (PBP) analyses, and the national impact analysis (NIA). Representatives for manufacturers, trade associations, environmental and energy efficiency advocates, and other interested parties attended the meeting.

Comments received since publication of the Framework Document have helped DOE identify and resolve issues related to the preliminary analyses. Chapter 2 of the preliminary TSD summarizes and addresses the comments received.

III. Summary of the Analyses Performed by DOE

For the products covered in this rulemaking, DOE conducted in-depth technical analyses in the following areas: (1) Engineering; (2) markups to determine product price; (3) energy use; (4) life-cycle cost and payback period; and (5) national impacts. The preliminary TSD that presents the methodology and results of each of these analyses is available at *http://www1.eere.energy.gov/buildings/appliance_standards/rulemaking.aspx/ruleid/83.*

The tools used in preparing several of the above analyses (life-cycle cost and national impacts) are available at the same Web site. Each individual spreadsheet includes an introduction describing the various inputs and outputs to the analysis, as well as operation instructions.

DOE also conducted, and has included in the preliminary TSD, several other analyses that support the major analyses or are preliminary analyses that will be expanded upon for a notice of proposed rulemaking (NOPR) if DOE determines that energy conservation standards are technologically feasible, economically justified, and would save a significant amount of energy, based on the information presented to the Department. These analyses include: (1) The market and technology assessment; (2) the screening analysis, which contributes to the engineering analysis; and (3) the shipments analysis, which contributes to the LCC and PBP analysis and NIA. In addition to these analyses, DOE has begun preliminary work on the manufacturer impact analysis and has identified the methods to be used for the consumer subgroup analysis, the emissions analysis, the employment impact analysis, the regulatory impact analysis, and the utility impact analysis. DOE will expand on these analyses in the NOPR.

A. Engineering Analysis

For this GSL rulemaking, DOE derives efficacy levels in the engineering analysis and lamp end-user prices in the product price determination (see section III.B). DOE estimates the end-user price of GSLs directly because it is difficult to disassemble and reverse-engineer the lamps. The outputs of the engineering analysis and product price determination are used to develop cost-efficiency relationships.

The engineering analysis focuses on selecting commercially available lamps that incorporate design options that improve efficacy. The engineering analysis identifies both the highest efficacy level that is technologically feasible within each product class and the representative baseline models, which serve as reference points against which DOE can measure changes resulting from potential energy conservation standards. After identifying more efficacious substitutes for each baseline model, DOE develops candidate standard levels. Chapters 2 and 5 of the preliminary TSD discuss the engineering analysis, and chapters 2 and 6 of the preliminary TSD discuss the product price determination.

B. Product Price Determination

As mentioned in section III.A, DOE often develops cost-efficiency relationships in the engineering analysis. However, for this rulemaking, DOE estimated the end-user price of GSLs directly. DOE selected this methodology because it is difficult to reverse-engineer GSLs, which are not easily disassembled. Chapters 2 and 6 of the preliminary TSD provide detail on the estimation of end-user prices.

C. Energy Use Analysis

The energy use analysis provides estimates of the annual energy consumption of general service lamps. The energy use analysis seeks to estimate the range of energy consumption of the products that meet each of the efficiency levels considered in a given rulemaking as they are used in the field. DOE uses these values in the LCC and PBP analyses and in the NIA. Chapter 7 of the preliminary TSD addresses the energy use analysis.

D. Life-Cycle Cost and Payback Period Analyses

The LCC and PBP analyses determine the economic impact of potential standards on individual consumers. The LCC is the total cost of purchasing, installing and operating a considered product over the course of its lifetime. The LCC analysis compares the LCCs of products designed to meet possible energy conservation standards with the LCC of the product likely to be installed in the absence of standards. DOE determines LCCs by considering: (1) Total installed cost to the purchaser (which consists of end-user product price, sales taxes, and installation cost); (2) the operating cost of the product (energy cost, water and wastewater cost in some cases, and maintenance and repair cost); (3) product lifetime; and (4) a discount rate that reflects the real consumer cost of capital and puts the LCC in present-value terms. The PBP represents the number of years needed to recover the increase in purchase price (including installation cost) of higher-efficiency products through savings in the operating cost of the product. PBP is calculated by dividing the incremental increase in installed cost of the higher efficiency product, compared to the baseline product, by the annual savings in operating costs. Chapter 8 of the preliminary TSD addresses the LCC and PBP analyses.

E. National Impact Analysis

The NIA estimates the national energy savings (NES) and the net present value (NPV) of total consumer costs and savings expected to result from standards at specific efficiency levels (referred to as candidate standard levels). DOE calculated NES and NPV for each candidate standard level for general service lamps as the difference between a base-case forecast (without standards) and the standards-case forecast (with standards). Cumulative energy savings are the sum of the annual NES determined for the lifetime of the products shipped from 2020 to 2049.[3] The NPV is the sum over time of the discounted net savings each year, which consists of the difference between total

[3] For purposes of analysis, DOE assumes that 2020 would be the first year of compliance with amended standards.

operating cost savings and increases in total installed costs. Critical inputs to this analysis include shipments projections, estimated product lifetimes, product installed costs and operating costs, product annual energy consumption, the base case efficiency projection, and discount rates. Chapter 10 of the preliminary TSD addresses the NIA.

IV. Public Participation

DOE invites input from the public on all the topics described above. The preliminary analytical results are subject to revision following further review and input from the public. A complete and revised TSD will be made available upon issuance of a NOPR. The final rule establishing any energy conservation standards will contain the final analytical results and will be accompanied by a final rule TSD.

DOE encourages those who wish to participate in the public meeting to obtain the preliminary TSD from DOE's Web site and to be prepared to discuss its contents. Once again, a copy of the preliminary TSD is available at: *http://www1.eere.energy.gov/buildings/appliance_standards/rulemaking.aspx/ruleid/83.* However, public meeting participants need not limit their comments to the topics identified in the preliminary TSD; DOE is also interested in receiving views concerning other relevant issues that participants believe would affect energy conservation standards for this product or that DOE should address in the NOPR.

Furthermore, DOE welcomes all interested parties, regardless of whether they participate in the public meeting, to submit in writing by February 9, 2015 comments, data, and information on matters addressed in the preliminary TSD and on other matters relevant to consideration of energy conservation standards for general service lamps.

The public meeting will be conducted in an informal conference style. A court reporter will be present to record the minutes of the meeting. There shall be no discussion of proprietary information, costs or prices, market shares, or other commercial matters regulated by United States antitrust laws.

After the public meeting and the closing of the comment period, DOE will consider all timely-submitted comments and additional information obtained from interested parties, as well as information obtained through further analyses. Afterwards, the Department will publish either a determination that the standards for general service lamps need not be amended or a NOPR proposing to amend those standards. The NOPR will include proposed energy conservation standards for the products covered by the rulemaking, and members of the public will be given an opportunity to submit written and oral comments on the proposed standards.

A. Attendance at Public Meeting

The time and date of the public meeting are listed in the **DATES** and **ADDRESSES** sections at the beginning of this notice. The public meeting will be held at the U.S. Department of Energy, Forrestal Building, Room 8E–089, 1000 Independence Avenue SW., Washington, DC 20585–0121. To attend the public meeting, please notify Ms. Brenda Edwards at (202) 586–2945. Please note that foreign nationals participating in the public meeting are subject to advance security screening procedures which require advance notice prior to attendance at the public meeting. If a foreign national wishes to participate in the public meeting, please inform DOE of this fact as soon as possible by contacting Ms. Regina Washington at (202) 586–1214 or by email: *Regina.Washington@ee.doe.gov* so that the necessary procedures can be completed. DOE requires visitors to with laptop computers and other devices, such as tablets, to be checked upon entry into the building. Any person wishing to bring these devices into the Forrestal Building will be required to obtain a property pass. Visitors should avoid bringing these devices, or allow an extra 45 minutes to check in. Please report to the visitor's desk to have devices checked before proceeding through security.

Due to the REAL ID Act implemented by the Department of Homeland Security (DHS), there have been recent changes regarding ID requirements for individuals wishing to enter Federal buildings from specific states and U.S. territories. Driver's licenses from the following states or territory will not be accepted for building entry and one of the alternate forms of ID listed below will be required. DHS has determined that regular driver's licenses (and ID cards) from the following jurisdictions are not acceptable for entry into DOE facilities: Alaska, American Samoa, Arizona, Louisiana, Maine, Massachusetts, Minnesota, New York, Oklahoma, and Washington. Acceptable alternate forms of Photo-ID include: U.S. Passport or Passport Card; an Enhanced Driver's License or Enhanced ID-Card issued by the states of Minnesota, New York or Washington (Enhanced licenses issued by these states are clearly marked Enhanced or Enhanced Driver's License); a military ID or other Federal government issued Photo-ID card.

You can attend the public meeting via webinar, and registration information, participant instructions, and information about the capabilities available to webinar participants will be published on the following Web site: *http://www1.eere.energy.gov/buildings/appliance_standards/rulemaking.aspx/ruleid/83.* Participants are responsible for ensuring their computer systems are compatible with the webinar software.

The purpose of the meeting is to receive comments and to help DOE understand potential issues associated with this rulemaking. DOE must receive requests to speak at the meeting before 5 p.m. on January 6, 2014. DOE must receive a signed original and an electronic copy of statements to be given at the public meeting before 5 p.m. on January 6, 2014.

B. Procedure for Submitting Requests to Speak

Any person who has an interest in today's notice or who is a representative of a group or class of persons that has an interest in these issues may request an opportunity to make an oral presentation. Such persons may hand-deliver requests to speak, along with a computer diskette or CD in WordPerfect, Microsoft Word, PDF, or text (ASCII) file format to Ms. Brenda Edwards at the address shown in the **ADDRESSES** section at the beginning of this notice between 9 a.m. and 4 p.m. Monday through Friday, except Federal holidays. Requests may also be sent by mail to the address shown in the **ADDRESSES** section or email to *Brenda.Edwards@ee.doe.gov.*

Persons requesting to speak should briefly describe the nature of their interest in this rulemaking and provide a telephone number for contact. DOE requests persons selected to be heard to submit an advance copy of their statements at least two weeks before the public meeting. At its discretion, DOE may permit any person who cannot supply an advance copy of their statement to participate, if that person has made advance alternative arrangements with the Building Technologies Program. The request to give an oral presentation should ask for such alternative arrangements.

C. Conduct of Public Meeting

DOE will designate a DOE official to preside at the public meeting and may also employ a professional facilitator to aid discussion. The meeting will not be a judicial or evidentiary-type public hearing, but DOE will conduct it in accordance with section 336 of EPCA. (42 U.S.C. 6306) A court reporter will record the proceedings and prepare a transcript. DOE reserves the right to

schedule the order of presentations and to establish the procedures governing the conduct of the public meeting. After the public meeting, interested parties may submit further comments on the proceedings as well as on any aspect of the rulemaking until the end of the comment period.

The public meeting will be conducted in an informal conference style. DOE will present summaries of comments received before the public meeting, allow time for presentations by participants, and encourage all interested parties to share their views on issues affecting this rulemaking. Each participant will be allowed to make a prepared general statement (within DOE-determined time limits) prior to the discussion of specific topics. DOE will permit other participants to comment briefly on any general statements.

At the end of all prepared statements on a topic, DOE will permit participants to clarify their statements briefly and comment on statements made by others. Participants should be prepared to answer questions from DOE and other participants concerning these issues. DOE representatives may also ask questions of participants concerning other matters relevant to this rulemaking. The official conducting the public meeting will accept additional comments or questions from those attending, as time permits. The presiding official will announce any further procedural rules or modification of the above procedures that may be needed for the proper conduct of the public meeting.

A transcript of the public meeting will be posted on the DOE Web site and will also be included in the docket, which can be viewed as described in the Docket section at the beginning of this notice. In addition, any person may buy a copy of the transcript from the transcribing reporter.

D. Submission of Comments

DOE will accept comments, data, and other information regarding this rulemaking before or after the public meeting, but no later than the date provided at the beginning of this notice. Please submit comments, data, and other information as provided in the **ADDRESSES** section. Submit electronic comments in WordPerfect, Microsoft Word, PDF, or text (ASCII) file format and avoid the use of special characters or any form of encryption. Comments in electronic format should be identified by the Docket Number EERE–2013–BT–STD–0051 and/or RIN 1904–AD09 and, wherever possible, carry the electronic signature of the author. No telefacsimiles (faxes) will be accepted.

Pursuant to 10 CFR 1004.11, any person submitting information that he or she believes to be confidential and exempt by law from public disclosure should submit two copies: One copy of the document including all the information believed to be confidential and one copy of the document with the information believed to be confidential deleted. DOE will make its own determination as to the confidential status of the information and treat it according to its determination.

Factors of interest to DOE when evaluating requests to treat submitted information as confidential include: (1) A description of the items; (2) whether and why such items are customarily treated as confidential within the industry; (3) whether the information is generally known by or available from other sources; (4) whether the information has previously been made available to others without obligation concerning its confidentiality; (5) an explanation of the competitive injury to the submitting person which would result from public disclosure; (6) a date upon which such information might lose its confidential nature due to the passage of time; and (7) why disclosure of the information would be contrary to the public interest.

V. Approval of the Office of the Secretary

The Secretary of Energy has approved publication of this notice of public meeting and availability of preliminary technical support document.

Issued in Washington, DC, on December 5, 2014.

Kathleen B. Hogan,

Deputy Assistant Secretary for Energy Efficiency, Energy Efficiency and Renewable Energy.

[FR Doc. 2014–29143 Filed 12–10–14; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Parts 891 and 892

[Docket No. FR–5576–N–02]

RIN 2502–AJ10

Supportive Housing and Services for the Elderly and Persons With Disabilities: Implementing Statutory Reforms—Reopening of Public Comment

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Reopening of public comment period.

SUMMARY: On October 7, 2014, HUD published a proposed rule entitled ''Supportive Housing and Services for the Elderly and Persons with Disabilities: Implementing Statutory Reforms,'' and solicited public comment through December 8, 2014. The response to HUD's solicitation of public comment was lower than what HUD expected, and HUD is therefore reopening the public comment period and will seek additional comments through January 15, 2015.

DATES: The comment period for the proposed rule published October 7, 2014 (79 FR 60590) is extended. *Comments* are due January 15, 2015.

ADDRESSES: Interested persons are invited to submit comments regarding this rulemaking to the Regulations Division, Office of General Counsel, 451 7th Street SW., Room 10276, Department of Housing and Urban Development, Washington, DC 20410–0500. Communications must refer to the above docket number and title. There are two methods for submitting public comments. All submissions must refer to the above docket number and title.

1. Submission of Comments by Mail. Comments may be submitted by mail to the Regulations Division, Office of General Counsel, Department of Housing and Urban Development, 451 7th Street SW., Room 10276, Washington, DC 20410–0500.

2. Electronic Submission of Comments. Interested persons may submit comments electronically through the Federal eRulemaking Portal at *www.regulations.gov.* HUD strongly encourages commenters to submit comments electronically. Electronic submission of comments allows the commenter maximum time to prepare and submit comments, ensures timely receipt by HUD, and enables HUD to make them immediately available to the public. Comments submitted electronically through the *www.regulations.gov* Web site can be viewed by other commenters and interested members of the public. Commenters should follow the instructions provided on that site to submit comments electronically.

Note: To receive consideration as public comments, comments must be submitted through one of the two methods specified above. All submissions must refer to the docket number and title of the rule.

No Facsimile Comments. Facsimile (fax) comments are not acceptable.

Public Inspection of Public Comments. All properly submitted

comments and communications submitted to HUD will be available for public inspection and copying between 8 a.m. and 5 p.m. eastern time, weekdays, at the above address. Due to security measures at the HUD Headquarters building, an advance appointment to review the public comments must be scheduled by calling the Regulations Division at 202–708–3055 (this is not a toll-free number). Individuals with speech or hearing impairments may access this number through TTY by calling the Federal Relay Service, toll free, at 800–877–8339. Copies of all comments submitted are available for inspection and downloading at *www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Alicia Anderson, Grant Policy and Management Division, Office of Housing, Department of Housing and Urban Development, 451 7th Street SW., Room 6142, Washington, DC 20410–7000; telephone number 202–708–3000 (this is not a toll-free number). Hearing- and speech-impaired persons may access this number through TTY by calling the Federal Relay Service, toll free, at 800–877–8339.

SUPPLEMENTARY INFORMATION: On October 7, 2014, at 79 FR 60590, HUD published a proposed rule that would implement amendments made by the Section 202 Supportive Housing for the Elderly Act of 2010 (Section 202 Act of 2010) and the Frank Melville Supportive Housing Investment Act of 2010 (Melville Act) to the authorizing statutes for HUD's supportive housing for the elderly program, known as the Section 202 program, and the supportive housing for persons with disabilities program, known as the Section 811 program. These two statutes were enacted on January 4, 2011, and made important reforms to the Section 202 and Section 811 programs, several of which have already been implemented through separate issuances, as discussed in the Supplementary Information section of this proposed rule. In addition to proposing regulations to implement reforms of these two statutes, this proposed rule would implement several other changes to align with the amendments made by the January 4, 2011, statutes, and streamline the Section 202 and Section 811 programs to better provide supportive housing for the elderly and persons with disabilities.

HUD's proposed rule would establish the requirements and procedures for the use of new project rental assistance for supportive housing for persons with disabilities; the implementation of an enhanced project rental assistance contract; allowance of a set-aside for a number of units for elderly individuals with functional limitations or other category of elderly persons as defined in the notice of funding availability (NOFA); make significant changes for the prepayment of certain loans for supportive housing for the elderly; implement a new form of rental assistance called Senior Preservation Rental Assistance Contracts (SPRACs); modernize the capital advance for supportive housing for persons with disabilities; and provide grant assistance for applicants without sufficient capital to prepare a site for a funding competition. This rulemaking also proposes to establish the regulations for the Service Coordinators in Multifamily Housing program and the Assisted Living Conversion program.

As noted in the Summary of this notice, HUD provided a 60-day public comment period that closed on December 8, 2014. As HUD also noted, the response to HUD's solicitation of public comment was lower than what HUD expected, and HUD is therefore reopening the public comment period and seeking comments through January 15, 2015.

Dated: December 5, 2014.

Benjamin T. Metcalf,

Deputy Assistant Secretary for Multifamily Housing.

[FR Doc. 2014–29078 Filed 12–10–14; 8:45 am]

BILLING CODE 5576–02–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2014–0186; FRL–9920–20–Region 3]

Approval and Promulgation of Air Quality Implementation Plans; District of Columbia; Preconstruction Requirements—Nonattainment New Source Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve an April 5, 2013 State Implementation Plan (SIP) revision submitted by the District Department of the Environment (DDOE) for the District of Columbia (DC). This revision pertains to DC's nonattainment New Source Review (NSR) program, notably provisions for Plantwide Applicability Limits (PALs) and preconstruction permitting requirements for major sources of fine particulate matter ($PM_{2.5}$). This action is being taken under the Clean Air Act (CAA).

DATES: Written comments must be received on or before January 12, 2015.

ADDRESSES: Submit your comments, identified by Docket ID Number EPA–R03–OAR–2014–0186 by one of the following methods:

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

B. *Email: kreider.andrew@epa.gov.*

C. *Mail:* EPA–R03–OAR–2014–0186, Andrew Kreider, Acting Associate Director, Office of Permits and Air Toxics, Mailcode 3AP10, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

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

Instructions: Direct your comments to Docket ID No. EPA–R03–OAR–2014–0186. EPA's policy is that all comments received will be included in the public docket without change, and may be made available online at *www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov* or email. The *www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *www.regulations.gov,* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the electronic docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, *i.e.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittal are available at District of Columbia Department of the Environment, Air Quality Division, 1200 1st Street NE., 5th floor, Washington, DC 20002.

FOR FURTHER INFORMATION CONTACT: Mr. David Talley, (215) 814–2117, or by email at *talley.david@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

On April 5, 2013, DDOE submitted a SIP revision request to EPA. This SIP revision request, if approved, would revise DC's currently approved nonattainment NSR program by amending Chapters 1 and 2 under Title 20 of DC Municipal Regulations (DCMR). Generally, the revisions incorporate provisions related to two Federal rulemaking actions: The 2002 ''Prevention of Significant Deterioration (PSD) and Nonattainment NSR (NSR): Baseline Emissions Determination, Actual-to-Future-Actual Methodology, Plantwide Applicability Limitations, Clean Units, Pollution Control Projects'' (2002 NSR Rules; 67 FR 80186); and the 2008 ''Implementation of the New Source Review (NSR) Program for Particulate Matter Less than 2.5 Micrometers ($PM_{2.5}$)'' (2008 NSR $PM_{2.5}$ Rule; 73 FR 28321).

The 2002 NSR Reform rules made changes to five areas of the NSR programs. In summary, the 2002 Rules: (1) Provided a new method for determining baseline actual emissions; (2) adopted an actual-to-projected-actual methodology for determining whether a major modification has occurred; (3) allowed major stationary sources to comply with a Plantwide Applicability Limit (PAL) to avoid having a significant emissions increase that triggers the requirements of the major NSR program; (4) provided a new applicability provision for emissions units that are designated clean units; and (5) excluded pollution control projects (PCPs) from the definition of ''physical change or change in the method of operation.'' On November 7, 2003, EPA published a notice of final action on its reconsideration of the 2002 NSR Reform Rules,[1] which added a definition for ''replacement unit'' and clarified an issue regarding PALs. For additional information on the 2002 NSR Reform Rules, see EPA's December 31, 2002 final rulemaking action entitled: ''Prevention of Significant Deterioration (PSD) and Nonattainment NSR (NSR): Baseline Emissions Determination, Actual-to-Future-Actual Methodology, Plantwide Applicability Limitations, Clean Units, Pollution Control Projects'' (67 FR 80186), the 2003 final reconsideration: ''Prevention of Significant Deterioration (PSD) and Non-Attainment New Source Review (NSR): Reconsideration'' (68 FR 63021), and *http://www.epa.gov/nsr.*

After the 2002 NSR Reform Rules were finalized and effective (March 3, 2003), industry, state, and environmental petitioners challenged numerous aspects of the 2002 NSR Reform Rules, along with portions of EPA's 1980 NSR Rules (45 FR 52676, August 7, 1980). On June 24, 2005, the United States Court of Appeals for the District of Columbia (D.C. Circuit) issued a decision on the challenges to the 2002 NSR Reform Rules. *New York* v. *United States,* 413 F.3d 3 (*New York I*).

In summary, the D.C. Circuit vacated portions of the rules pertaining to clean units and PCPs, remanded a portion of the rules regarding recordkeeping and the term ''reasonable possibility'' found in 40 CFR 52.21(r)(6) and 40 CFR 51.166(r)(6), and either upheld or did not comment on the other provisions included as part of the 2002 NSR Reform Rules. On June 13, 2007 (72 FR 32526), EPA took final action to revise the 2002 NSR Reform Rules to remove from federal law all provisions pertaining to clean units and the PCP exemption that were vacated by the D.C. Circuit.

The 2008 NSR $PM_{2.5}$ Rule (as well as the 2007 ''Final Clean Air Fine Particle Implementation Rule'' (2007 $PM_{2.5}$ Implementation Rule)),[2] was also the subject of litigation before the D.C. Circuit in *Natural Resources Defense Council* v. *EPA.*[3] On January 4, 2013, the court remanded to EPA both the 2007 $PM_{2.5}$ Implementation Rule and the 2008 NSR $PM_{2.5}$ Rule. The court found that in both rules EPA erred in implementing the 1997 $PM_{2.5}$ NAAQS solely pursuant to the general implementation provisions of subpart 1 of part D of title I of the CAA (subpart 1), rather than pursuant to the additional implementation provisions specific to particulate matter in subpart 4 of part D of title I (subpart 4).[4] As a result, the court remanded both rules and instructed EPA ''to re-promulgate these rules pursuant to subpart 4 consistent with this opinion.'' Although the D.C. Circuit declined to establish a deadline for EPA's response, EPA intends to respond promptly to the court's remand and to promulgate new generally applicable implementation regulations for the $PM_{2.5}$ NAAQS in accordance with the requirements of subpart 4. In the interim, however, states and EPA still need to proceed with implementation of the 1997 $PM_{2.5}$ NAAQS in a timely and effective fashion in order to meet statutory obligations under the CAA and to assure the protection of public health intended by those NAAQS. In a June 2, 2014 final rulemaking entitled ''Identification of Nonattainment Classification and Deadlines for Submission of State Implementation Plan (SIP) Provisions for the 1997 Fine Particle ($PM_{2.5}$) National Ambient Air Quality Standard (NAAQS) and 2006 $PM_{2.5}$ NAAQS; Final Rule,'' (79 FR 31566), EPA identified the classification under subpart 4 for areas currently designated nonattainment for the 1997 and 2006 $PM_{2.5}$ NAAQS. That rulemaking also established a December 31, 2014 deadline for the submission of any additional attainment related SIP elements that may be needed to meet the applicable requirements of subpart 4.

Additionally, the 2008 NSR $PM_{2.5}$ final rule authorized states to adopt provisions in their nonattainment NSR rules that would allow major stationary sources and major modifications locating in areas designated nonattainment for $PM_{2.5}$ to offset emissions increases of direct $PM_{2.5}$ emissions or $PM_{2.5}$ precursors with reductions of either direct $PM_{2.5}$ emissions or $PM_{2.5}$ precursors in accordance with offset ratios contained in the approved SIP for the applicable nonattainment area. The inclusion, in whole or in part, of the interpollutant offset provisions for $PM_{2.5}$ is

[1] *See,* ''Prevention of Significant Deterioration (PSD) and Non-Attainment New Source Review (NSR): Reconsideration;'' (68 FR 63021).

[2] 72 FR 20586 (April 25, 2007).

[3] 706 F.3d 428 (D.C. Cir. 2013).

[4] The court's opinion did not specifically address the point that implementation under subpart 4 requirements would still require consideration of subpart 1 requirements, to the extent that subpart 4 did not override subpart 1. EPA assumes that the court presumed that EPA would address this issue of potential overlap between subpart 1 and subpart 4 requirements in subsequent actions.

discretionary on the part of the states. In the preamble to the 2008 final rule, EPA included preferred or presumptive offset ratios, applicable to specific $PM_{2.5}$ precursors that states may adopt in conjunction with the new interpollutant offset provisions for $PM_{2.5}$, and for which the state could rely on the EPA's technical work to demonstrate the adequacy of the ratios for use in any $PM_{2.5}$ nonattainment area. Alternatively, the preamble indicated that states may adopt their own ratios, subject to the EPA's approval, that would have to be substantiated by modeling or other technical demonstrations of the net air quality benefit for ambient $PM_{2.5}$ concentrations. The preferred ratios were subsequently the subject of a petition for reconsideration, which the Administrator granted. EPA continues to support the basic policy that sources may offset increases in emissions of direct $PM_{2.5}$ or of any $PM_{2.5}$ precursor in a $PM_{2.5}$ nonattainment area with actual emissions reductions in direct $PM_{2.5}$ or $PM_{2.5}$ precursors in accordance with offset ratios as approved in the SIP for the applicable nonattainment area. However, we no longer consider the preferred ratios set forth in the preamble to the 2008 final rule for $PM_{2.5}$ NSR implementation to be presumptively approvable. Instead, any ratio involving $PM_{2.5}$ precursors adopted by the state for use in the interpollutant offset program for $PM_{2.5}$ nonattainment areas must be accompanied by a technical demonstration that shows the net air quality benefits of such ratio for the $PM_{2.5}$ nonattainment area in which it will be applied.

A Technical Support Document (TSD) is included in the docket for this action, and contains additional detail regarding the history and background of the Federal counterparts to the regulations included in DDOE's submittal, which will not be restated here.

II. Summary of SIP Revision

Generally, the revision submitted by DDOE involves amendments to sections 199.1 (Definitions and Abbreviations) and 200 (General Permit Requirements), repealing and replacing section 204 (Permit Requirements for Sources Affecting Non-attainment Areas), repealing section 206 (Notice and Comment Prior to Permit Issuance), adding sections 208 (General and Non-attainment Areas) and 210 (Notice and Comment Prior to Permit Issuance), and adding specific definitions to section 299 (Definitions and Abbreviations). Additionally, several non-substantive, clarifying and organizational revisions were submitted. Following is EPA's rationale for the proposed approval.

A. NSR Reform

DDOE has not adopted the full suite of NSR reform regulations, opting instead for a ''hybrid'' approach, tailored to the particular air quality challenges and source universe in DC. The vast majority of sources in DC are institutional (*e.g.* hospitals, universities). Because it focused on large industrial source categories, much of the analysis performed by EPA in support of the 2002 Reform Rules may not be applicable in DC. However, as EPA stated in the preamble of the 2002 NSR Rules: ''. . . state and local jurisdictions have significant freedom to customize their NSR programs. Ever since the current NSR regulations were adopted in 1980, we have taken the position that States may meet the requirements of part 51 'with different but equivalent regulations. 45 FR 52676.' Several States have, indeed, implemented programs that work every bit as well as our own base programs, yet depart substantially from the basic framework established in our rules . . .'' (See 67 FR 80241). Therefore, EPA is able to approve state SIP revisions that are at least as stringent as the Federal rules even if they contain provisions that differ. EPA's proposed approval in this case, therefore, hinges upon the determination that the proposed revisions are at least equivalent to the Federal program and do not constitute an impermissible backslide under the CAA.

1. Calculating Emissions Increases

In order for a physical change or change in the method of operation at a major stationary source to be considered a major modification and trigger NSR requirements, the net emissions increase resulting from the project at hand must exceed the significance threshold(s) for one or more pollutant. One of the primary components of the 2002 NSR Reform Rules was a change in the regulations governing how to quantify the emissions increase relative to the pre-project baseline. Federal regulations allow the use of ''baseline actual emissions'' (BAE) to determine a facility's emissions prior to the change. For a facility that is not an electric generating unit (EGU), BAE is calculated by selecting any 24-month period during the preceding ten years and computing the average emission rate. The ''look-back'' period for EGUs is five years. DDOE has not adopted the Federal regulations relating to the calculation of BAE; rather, DDOE has retained the pre-NSR reform definition of ''actual emissions.'' Actual emissions are calculated by averaging the emissions in the 24-month period immediately preceding the project at hand. The revisions to the definition of ''actual emissions'' submitted by DDOE do not substantively change the look-back period for calculating actual emissions. Rather, they clarify that DDOE may allow the use of a different time period within the last five years if a demonstration can be made that it is more representative of the facility's operations. Additionally, the revisions require that the same 24-month period be used for all pollutants. These proposed revisions differ from the Federal regulations which allow different 24-month periods to be used for different pollutants.

Once the baseline has been established, it is necessary to calculate the increase resulting from the project relative to that baseline. Federal regulations allow a source to use ''projected actual emissions'' (PAE) which predict future emissions, based on several factors including business projections. PAE also allows a source to exclude from consideration those emissions which could legally and physically have been emitted prior to the modification. DDOE's regulations (and indeed EPA's pre-reform regulations) require sources to use the full potential to emit (PTE) to calculate the increase, and do not allow for the exclusion of emissions that the facility could have accommodated prior to the change. This is codified in the definition of ''net emissions increase,'' previously at 20 DCMR section 199.1. In the proposed revisions, that definition is re-codified under section 299.1, however the substantive requirements are not changed. It is also important to note that, because DDOE's regulations do not allow for the use of PAE, and because every source wishing to construct or modify in DC must receive authorization from DDOE prior to doing so, the ''reasonable possibility'' provisions of NSR Reform do not apply.

2. Plantwide Applicability Limits (PALs)

The most notable component of the 2002 NSR Reform rules being adopted by DC are provisions for DDOE to issue Plantwide Applicability Limits, or PALs. A PAL is a facility-wide, pollutant specific limit that allows sources to make modifications without triggering major NSR requirements, as long as the plantwide emissions of that pollutant do not exceed the PAL. EPA's rationale for adopting PALs in 2002 was that they would encourage the installation of newer, more efficient, and lower emitting equipment by providing sources the flexibility to do so

without triggering NSR requirements. For sources, the trade-off for this flexibility is a number of enhanced monitoring requirements.

Under Federal regulations, a PAL is set by calculating the facility's BAE of the PAL pollutant (as described above), and adding the significance level for that pollutant, as defined by 40 CFR 51.165(a)(1)(x)(A). Federal PALs have a term of ten years. The PAL provisions being proposed by DC for approval into the SIP differ from the Federal PAL regulations in two ways. First, PALs issued by DDOE have a five year term, rather than a ten year term. Second, as previously discussed, DDOE has not adopted BAE provisions for calculating the pre-project emissions baseline. Therefore, in order to establish the PAL, the significance level for the PAL pollutant is added to the pre-NSR Reform definition of ''actual emissions.''

B. $PM_{2.5}$

The $PM_{2.5}$ provisions submitted by DDOE for approval into the DC SIP largely mirror the 2008 NSR $PM_{2.5}$ Rule, which: (1) Required NSR permits to address directly emitted $PM_{2.5}$ and precursor pollutants; (2) established significant emission rates for direct $PM_{2.5}$ and precursor pollutants (including sulfur dioxide (SO_2) and oxides of nitrogen (NO_X)); (3) established $PM_{2.5}$ emission offsets; and (4) required states to account for gases that condense to form particles (condensables) in $PM_{2.5}$ emission limits.

Additionally, DDOE's submittal includes provisions allowing sources to offset emissions increases of direct $PM_{2.5}$ emissions or $PM_{2.5}$ precursors with reductions of either direct $PM_{2.5}$ emissions or $PM_{2.5}$ precursors in accordance with offset ratios contained in the approved SIP for the applicable nonattainment area. DDOE's submittal does not, however, contain the presumptive offset trading ratios from the 2008 NSR $PM_{2.5}$ Rule that were subject to the petition for reconsideration. As previously discussed, while the presumptively approvable interpollutant trading ratios from the 2008 NSR $PM_{2.5}$ Rule are no longer supported, EPA does continue to support the policy allowing an interpollutant offset program. However, in order for sources in DC to utilize such a program, DDOE must develop and submit to EPA for approval, a technical demonstration justifying the ratios to be used, and showing the net air quality benefits of such ratio for the $PM_{2.5}$ nonattainment area in which it will be applied.

EPA is in the process of evaluating the requirements of subpart 4 as they pertain to nonattainment NSR. In particular, subpart 4 includes section 189(e) of the CAA, which requires the control of major stationary sources of PM_{10} precursors (and hence under the court decision, $PM_{2.5}$ precursors) ''except where the Administrator determines that such sources do not contribute significantly to PM_{10} levels which exceed the standard in the area.'' The evaluation of which precursors need to be controlled to achieve the standard in a particular area is typically conducted in the context of the state's preparing and the EPA's reviewing of an area's attainment plan SIP. In this case, there was previously only one designated $PM_{2.5}$ nonattainment area, the DC portion of the Washington, DC-MD-VA nonattainment area for the 1997 annual $PM_{2.5}$ NAAQS.

With respect to this nonattainment area, DDOE submitted an attainment plan on April 2, 2008. On January 12, 2009, EPA finalized a clean data determination for the area, (74 FR 1146), which suspended the requirement for DDOE to submit, among other things, an attainment plan SIP for the area. Accordingly, on February 6, 2012, DDOE withdrew the attainment plan SIP, and it is no longer before EPA. Moreover, on October 6, 2014, (FR 60081), EPA took final action to redesignate the Metro-Washington area to attainment. This redesignation absolves the District of any further obligation to comply with the subpart 4 requirements for nonattainment NSR as to this area unless and until there is a future designation of nonattainment for a $PM_{2.5}$ NAAQS. Therefore, EPA is not evaluating the April 5, 2013 submittal for the purposes of determining compliance with the subpart 4 requirements.

III. Proposed Action

EPA's review of this material indicates that with the proposed amendments to the DC Municipal Regulations, DDOE's nonattainment NSR program is equivalent to, and at least as stringent as Federal regulations. Therefore, EPA is proposing to approve the DC SIP revision which was submitted on April 5, 2013. EPA is not acting on DDOE's submittal for purposes of determining compliance with the subpart 4 requirements relating to $PM_{2.5}$. EPA is soliciting public comments on the issues discussed in this document. These comments will be considered before taking final action.

IV. Statutory and Executive Order Reviews

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

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

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

List of Subjects in 40 CFR Part 52

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

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

Dated: November 28, 2014.

William C. Early,

Acting Regional Administrator, Region III.

[FR Doc. 2014–29128 Filed 12–10–14; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R06–OAR–2011–0821; FRL–9920–35–Region 6]

Approval and Promulgation of Air Quality Implementation Plans; State of New Mexico; Infrastructure SIP Requirements for the 2008 Lead National Ambient Air Quality Standard and Repeal of Cement Kilns Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve elements of a State Implementation Plan (SIP) submission from the State of New Mexico addressing the applicable requirements of Clean Air Act (CAA) section 110 for the 2008 National Ambient Air Quality Standards (NAAQS) for Lead (Pb), 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, we are proposing to approve a revision to the New Mexico SIP that repeals an existing state-wide cement kilns rule.

DATES: Written comments must be received on or before January 12, 2015.

ADDRESSES: Submit your comments, identified by Docket ID Number EPA–R06–OAR–2011–0821, by one of the following methods:

- *www.regulations.gov.* Follow the online instructions.
- *Email:* Mr. Terry Johnson at *johnson.terry@epa.gov.*
- *Mail or delivery:* Mr. Guy Donaldson, Chief, Air Planning Section (6PD–L), Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202–2733. Deliveries are accepted only between the hours of 8 a.m. and 4 p.m. weekdays, and not on legal holidays. Special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–R06–OAR–2011–0821. EPA's policy is that all comments received will be included in the public docket without change, and may be made available online at *www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov* or email. The *www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *www.regulations.gov,* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.*

Docket: All documents in the docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, *e.g.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at the Air Planning Section (6PD–L), Environmental Protection Agency, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202–2733. The files will be made available by appointment for public inspection in the Region 6 FOIA Review Room between the hours of 8:30 a.m. and 4:30 p.m. weekdays except for legal holidays. Contact the person listed in the **FOR FURTHER INFORMATION CONTACT** paragraph below or Mr. Bill Deese at 214–665–7253 to make an appointment. If possible, please make the appointment at least two working days in advance of your visit. There will be a fee of 15 cents per page for making photocopies of documents. On the day of the visit, please check in at the EPA Region 6 reception area at 1445 Ross Avenue, Suite 700, Dallas, Texas.

FOR FURTHER INFORMATION CONTACT: Mr. Terry Johnson, Air Planning Section (6PD–L), Environmental Protection Agency, Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202–2733, telephone 214–665–2154; fax number 214–665–6762; email address *johnson.terry@epamail.epa.gov* for information concerning the infrastructure SIP submittal for the 2008 Pb NAAQS, or Mr. Alan Shar, telephone (214) 665–6691, email address *shar.alan@epa.gov* for information concerning the revision to the SIP to repeal the cement kilns rule.

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

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I. Background

EPA is proposing action on a September 9, 2011 SIP submission from New Mexico that addresses the infrastructure requirements of CAA sections 110(a)(1) and (a)(2) for the 2008 Pb NAAQS. The requirement for states to make a SIP submission of this type arises out of CAA section 110(a)(1). 42 U.S.C. Sec. 7410(a)(1). Pursuant to section 110(a)(1), states must make SIP submissions ''within 3 years (or such shorter period as the Administrator may prescribe) after the promulgation of a national primary ambient air quality standard (or any revision thereof),'' and these SIP submissions are to provide for the ''implementation, maintenance, and

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

We are also proposing to approve revisions to New Mexico Administrative Code (NMAC), Title 20 Environmental Protection, Chapter 2 Air Quality (Statewide), Part 12 Cement Kilns (NMAC 20.2.12—*Cement Kilns*) rule submitted to EPA by the New Mexico Environment Department (NMED) through a letter dated July 31, 2014. This SIP revision repeals the existing cement kilns rule in effect.

The existing NMAC 20.2.12—*Cement Kilns* rule was part of the original New Mexico SIP, and last approved by EPA on September 26, 1997 (62 FR 50518). See also 40 CFR 52.1620(c)(66).

II. Applicable Elements of Sections 110(a)(1) and (2) Related to the 2008 Pb NAAQS

On October 15, 2008, EPA revised the primary and secondary Pb NAAQS (hereafter the 2008 Pb NAAQS).[1] The level of the primary (health-based) standard was revised to 0.15 micrograms per cubic meter (μg/m3), measured as total suspended particles (TSP) and not to be exceeded with an averaging time of a rolling 3-month period. EPA also revised the secondary (welfare-based) standard to be identical to the primary standard (73 FR 66964).[2]

For the 2008 Pb NAAQS, states typically have met many of the basic program elements required in section 110(a)(2) through earlier SIP submissions in connection with previous NAAQS. Nevertheless, pursuant to section 110(a)(1), states have to review and revise, as appropriate, their existing SIPs to ensure that they are adequate to address the 2008 Pb NAAQS. To assist states in meeting this statutory requirement, EPA issued guidance on October 14, 2011, addressing the infrastructure SIP elements required under sections 110(a)(1) and (2) for the 2008 Pb NAAQS.[2] EPA will address these elements below under the following headings: (A) Emission limits and other control measures; (B) Ambient air quality monitoring/data system; (C) Program for enforcement of control measures (PSD, New Source Review for nonattainment areas, and construction and modification of all stationary sources); (D) Interstate and international transport; (E) Adequate authority, resources, implementation, and oversight; (F) Stationary source monitoring system; (G) Emergency authority; (H) Future SIP revisions; (I) Nonattainment areas; (j) Consultation with government officials, public notification, prevention of significant deterioration (PSD), and visibility protection; (K) Air quality and modeling/data; (L) Permitting fees; and (M) Consultation/participation by affected local entities.

III. EPA's Approach to the Review of Infrastructure SIP Submissions

Section 110(a)(1) addresses the timing and general requirements for infrastructure SIP submissions, and section 110(a)(2) provides more details concerning the required contents of these submissions. The list of required elements provided in section 110(a)(2) contains a wide variety of disparate provisions, some of which pertain to required legal authority, some of which pertain to required substantive program provisions, and some of which pertain to requirements for both authority and substantive program provisions.[3] EPA therefore believes that while the timing requirement in section 110(a)(1) is unambiguous, some of the other statutory provisions are ambiguous. In particular, EPA believes that the list of required elements for infrastructure SIP submissions provided in section 110(a)(2) contains ambiguities concerning what is required for inclusion in an infrastructure SIP submission.

The following examples of ambiguities illustrate the need for EPA to interpret some section 110(a)(1) and section 110(a)(2) requirements with respect to infrastructure SIP submissions for a given new or revised NAAQS. One example of ambiguity is that section 110(a)(2) requires that ''each'' SIP submission must meet the list of requirements therein, while EPA has long noted that this literal reading of the statute is internally inconsistent and would create a conflict with the nonattainment provisions in part D of title I of the Act, which specifically address nonattainment SIP requirements.[4] Section 110(a)(2)(I) pertains to nonattainment SIP requirements and part D addresses when attainment plan SIP submissions to address nonattainment area requirements are due. For example, section 172(b) requires EPA to establish a schedule for submission of such plans for certain pollutants when the Administrator promulgates the designation of an area as nonattainment, and section 107(d)(1)(B) allows up to two years, or in some cases three years, for such designations to be promulgated.[5] This ambiguity illustrates that rather than apply all the stated requirements of section 110(a)(2) in a strict literal sense, EPA must determine which provisions of section 110(a)(2) are applicable for a particular infrastructure SIP submission.

Another example of ambiguity within sections 110(a)(1) and 110(a)(2) with respect to infrastructure SIPs pertains to whether states must meet all of the infrastructure SIP requirements in a single SIP submission, and whether EPA must act upon such SIP submission in a single action. Although section 110(a)(1) directs states to submit ''a plan'' to meet these requirements, EPA

[1] The previous Pb NAAQS were issued in 1978. They established a primary standard of 1.5 μg/m3 not to be exceeded with an averaging time of discrete calendar quarters (43 FR 46246, October 5, 1978).

[2] Although the effective date of the **Federal Register** notice for the final rule was January 12, 2009, the rule was signed by the Administrator and publicly disseminated on October 15, 2008. Therefore, the deadline for submittal of infrastructure SIPs for the 2008 Pb NAAQS was October 15, 2011.

[3] For example: Section 110(a)(2)(E)(i) provides that states must provide assurances that they have adequate legal authority under state and local law to carry out the SIP; section 110(a)(2)(C) provides that states must have a SIP-approved program to address certain sources as required by part C of title I of the CAA; and section 110(a)(2)(G) provides that states must have legal authority to address emergencies as well as contingency plans that are triggered in the event of such emergencies.

[4] See, *e.g.,* ''Rule To Reduce Interstate Transport of Fine Particulate Matter and Ozone (Clean Air Interstate Rule); Revisions to Acid Rain Program; Revisions to the NO_X SIP Call; Final Rule,'' 70 FR 25162, at 25163–65 (May 12, 2005) (explaining relationship between timing requirement of section 110(a)(2)(D) versus section 110(a)(2)(I)).

[5] EPA notes that this ambiguity within section 110(a)(2) is heightened by the fact that various subparts of part D set specific dates for submission of certain types of SIP submissions in designated nonattainment areas for various pollutants. Note, *e.g.,* that section 182(a)(1) provides specific dates for submission of emissions inventories for the ozone NAAQS. Some of these specific dates are necessarily later than three years after promulgation of the new or revised NAAQS.

interprets the CAA to allow states to make multiple SIP submissions separately addressing infrastructure SIP elements for the same NAAQS. If states elect to make such multiple SIP submissions to meet the infrastructure SIP requirements, EPA can elect to act on such submissions either individually or in a larger combined action.[6] Similarly, EPA interprets the CAA to allow it to take action on the individual parts of one larger, comprehensive infrastructure SIP submission for a given NAAQS without concurrent action on the entire submission. For example, EPA has sometimes elected to act at different times on various elements and sub-elements of the same infrastructure SIP submission.[7]

Ambiguities within sections 110(a)(1) and 110(a)(2) may also arise with respect to infrastructure SIP submission requirements for different NAAQS. Thus, EPA notes that not every element of section 110(a)(2) would be relevant, or as relevant, or relevant in the same way, for each new or revised NAAQS. The states' attendant infrastructure SIP submissions for each NAAQS therefore could be different. For example, the monitoring requirements that a state might need to meet in its infrastructure SIP submission for purposes of section 110(a)(2)(B) could be very different for different pollutants, for example because the content and scope of a state's infrastructure SIP submission to meet this element might be very different for an entirely new NAAQS than for a minor revision to an existing NAAQS.[8]

EPA notes that interpretation of section 110(a)(2) is also necessary when EPA reviews other types of SIP submissions required under the CAA. Therefore, as with infrastructure SIP submissions, EPA also has to identify and interpret the relevant elements of section 110(a)(2) that logically apply to these other types of SIP submissions. For example, section 172(c)(7) requires that attainment plan SIP submissions required by part D have to meet the ''applicable requirements'' of section 110(a)(2). Thus, for example, attainment plan SIP submissions must meet the requirements of section 110(a)(2)(A) regarding enforceable emission limits and control measures and section 110(a)(2)(E)(i) regarding air agency resources and authority. By contrast, it is clear that attainment plan SIP submissions required by part D would not need to meet the portion of section 110(a)(2)(C) that pertains to the PSD program required in part C of title I of the CAA, because PSD does not apply to a pollutant for which an area is designated nonattainment and thus subject to part D planning requirements. As this example illustrates, each type of SIP submission may implicate some elements of section 110(a)(2) but not others.

Given the potential for ambiguity in some of the statutory language of section 110(a)(1) and section 110(a)(2), EPA believes that it is appropriate to interpret the ambiguous portions of section 110(a)(1) and section 110(a)(2) in the context of acting on a particular SIP submission. In other words, EPA assumes that Congress could not have intended that each and every SIP submission, regardless of the NAAQS in question or the history of SIP development for the relevant pollutant, would meet each of the requirements, or meet each of them in the same way. Therefore, EPA has adopted an approach under which it reviews infrastructure SIP submissions against the list of elements in section 110(a)(2), but only to the extent each element applies for that particular NAAQS.

Historically, EPA has elected to use guidance documents to make recommendations to states for infrastructure SIPs, in some cases conveying needed interpretations on newly arising issues and in some cases conveying interpretations that have already been developed and applied to individual SIP submissions for particular elements.[9] EPA most recently issued guidance for infrastructure SIPs on September 13, 2013 (2013 Guidance).[10] EPA developed this document to provide states with up-to-date guidance for infrastructure SIPs for any new or revised NAAQS. Within this guidance, EPA describes the duty of states to make infrastructure SIP submissions to meet basic structural SIP requirements within three years of promulgation of a new or revised NAAQS. EPA also made recommendations about many specific subsections of section 110(a)(2) that are relevant in the context of infrastructure SIP submissions.[11] The guidance also discusses the substantively important issues that are germane to certain subsections of section 110(a)(2). Significantly, EPA interprets sections 110(a)(1) and 110(a)(2) such that infrastructure SIP submissions need to address certain issues and need not address others. Accordingly, EPA reviews each infrastructure SIP submission for compliance with the applicable statutory provisions of section 110(a)(2), as appropriate.

As an example, section 110(a)(2)(E)(ii) is a required element of section 110(a)(2) for infrastructure SIP submissions. Under this element, a state must meet the substantive requirements of section 128, which pertain to state boards that approve permits or enforcement orders and heads of executive agencies with similar powers. Thus, EPA reviews infrastructure SIP submissions to ensure that the state's SIP appropriately addresses the requirements of section 110(a)(2)(E)(ii) and section 128. The 2013 Guidance explains EPA's interpretation that there may be a variety of ways by which states can appropriately address these substantive statutory requirements, depending on the structure of an

[6] See, *e.g.,* ''Approval and Promulgation of Implementation Plans; New Mexico; Revisions to the New Source Review (NSR) State Implementation Plan (SIP); Prevention of Significant Deterioration (PSD) and Nonattainment New Source Review (NNSR) Permitting,'' 78 FR 4339 (January 22, 2013) (EPA's final action approving the structural PSD elements of the New Mexico SIP submitted by the State separately to meet the requirements of EPA's 2008 $PM_{2.5}$ NSR rule), and ''Approval and Promulgation of Air Quality Implementation Plans; New Mexico; Infrastructure and Interstate Transport Requirements for the 2006 $PM_{2.5}$ NAAQS,'' (78 FR 4337) (January 22, 2013) (EPA's final action on the infrastructure SIP for the 2006 $PM_{2.5}$ NAAQS).

[7] On December 14, 2007, the State of Tennessee, through the Tennessee Department of Environment and Conservation, made a SIP revision to EPA demonstrating that the State meets the requirements of sections 110(a)(1) and (2). EPA proposed action for infrastructure SIP elements (C) and (J) on January 23, 2012 (77 FR 3213) and took final action on March 14, 2012 (77 FR 14976). On April 16, 2012 (77 FR 22533) and July 23, 2012 (77 FR 42997), EPA took separate proposed and final actions on all other section 110(a)(2) infrastructure SIP elements of Tennessee's December 14, 2007 submittal.

[8] For example, implementation of the 1997 $PM_{2.5}$ NAAQS required the deployment of a system of new monitors to measure ambient levels of that new indicator species for the new NAAQS.

[9] EPA notes, however, that nothing in the CAA requires EPA to provide guidance or to promulgate regulations for infrastructure SIP submissions. The CAA directly applies to states and requires the submission of infrastructure SIP submissions, regardless of whether or not EPA provides guidance or regulations pertaining to such submissions. EPA elects to issue such guidance in order to assist states, as appropriate.

[10] ''Guidance on Infrastructure State Implementation Plan (SIP) Elements under Clean Air Act Sections 110(a)(1) and 110(a)(2),'' Memorandum from Stephen D. Page, September 13, 2013.

[11] EPA's September 13, 2013, guidance did not make recommendations with respect to infrastructure SIP submissions to address section 110(a)(2)(D)(i)(I). EPA issued the guidance shortly after the U.S. Supreme Court agreed to review the D.C. Circuit decision in *EME Homer City,* 696 F.3d7 (D.C. Cir. 2012) which had interpreted the requirements of section 110(a)(2)(D)(i)(I). In light of the uncertainty created by ongoing litigation, EPA elected not to provide additional guidance on the requirements of section 110(a)(2)(D)(i)(I) at that time. As the guidance is neither binding nor required by statute, whether EPA elects to provide guidance on a particular section has no impact on a state's CAA obligations.

individual state's permitting or enforcement program (*e.g.,* whether permits and enforcement orders are approved by a multi-member board or by a head of an executive agency). However they are addressed by the state, the substantive requirements of section 128 are necessarily included in EPA's evaluation of infrastructure SIP submissions because section 110(a)(2)(E)(ii) explicitly requires that the state satisfy the provisions of section 128.

As another example, EPA's review of infrastructure SIP submissions with respect to the PSD program requirements in sections 110(a)(2)(C), (D)(i)(II), and (J) focuses upon the structural PSD program requirements contained in part C and EPA's PSD regulations. Structural PSD program requirements include provisions necessary for the PSD program to address all regulated sources and NSR pollutants, including GHGs. By contrast, structural PSD program requirements do not include provisions that are not required under EPA's regulations at 40 CFR 51.166 but are merely available as an option for the state, such as the option to provide grandfathering of complete permit applications with respect to the 2012 $PM_{2.5}$ NAAQS. Accordingly, the latter optional provisions are types of provisions EPA considers irrelevant in the context of an infrastructure SIP action.

For other section 110(a)(2) elements, however, EPA's review of a state's infrastructure SIP submission focuses on assuring that the state's SIP meets basic structural requirements. For example, section 110(a)(2)(C) includes, *inter alia,* the requirement that states have a program to regulate minor new sources. Thus, EPA evaluates whether the state has an EPA-approved minor new source review program and whether the program addresses the pollutants relevant to that NAAQS. In the context of acting on an infrastructure SIP submission, however, EPA does not think it is necessary to conduct a review of each and every provision of a state's existing minor source program (*i.e.,* already in the existing SIP) for compliance with the requirements of the CAA and EPA's regulations that pertain to such programs.

With respect to certain other issues, EPA does not believe that an action on a state's infrastructure SIP submission is necessarily the appropriate type of action in which to address possible deficiencies in a state's existing SIP. These issues include: (i) Existing provisions related to excess emissions from sources during periods of startup, shutdown, or malfunction that may be contrary to the CAA and EPA's policies addressing such excess emissions (''SSM''); (ii) existing provisions related to ''director's variance'' or ''director's discretion'' that may be contrary to the CAA because they purport to allow revisions to SIP-approved emissions limits while limiting public process or not requiring further approval by EPA; and (iii) existing provisions for PSD programs that may be inconsistent with current requirements of EPA's ''Final NSR Improvement Rule,'' 67 FR 80186 (December 31, 2002), as amended by 72 FR 32526 (June 13, 2007) (''NSR Reform''). Thus, EPA believes it may approve an infrastructure SIP submission without scrutinizing the totality of the existing SIP for such potentially deficient provisions and may approve the submission even if it is aware of such existing provisions.[12] It is important to note that EPA's approval of a state's infrastructure SIP submission should not be construed as explicit or implicit re-approval of any existing potentially deficient provisions that relate to the three specific issues just described.

EPA's approach to review of infrastructure SIP submissions is to identify the CAA requirements that are logically applicable to that submission. EPA believes that this approach to the review of a particular infrastructure SIP submission is appropriate, because it would not be reasonable to read the general requirements of section 110(a)(1) and the list of elements in 110(a)(2) as requiring review of each and every provision of a state's existing SIP against all requirements in the CAA and EPA regulations merely for purposes of assuring that the state in question has the basic structural elements for a functioning SIP for a new or revised NAAQS. Because SIPs have grown by accretion over the decades as statutory and regulatory requirements under the CAA have evolved, they may include some outmoded provisions and historical artifacts. These provisions, while not fully up to date, nevertheless may not pose a significant problem for the purposes of ''implementation, maintenance, and enforcement'' of a new or revised NAAQS when EPA evaluates adequacy of the infrastructure SIP submission. EPA believes that a better approach is for states and EPA to focus attention on those elements of section 110(a)(2) of the CAA most likely to warrant a specific SIP revision due to the promulgation of a new or revised NAAQS or other factors.

For example, EPA's 2013 Guidance gives simpler recommendations with respect to carbon monoxide than other NAAQS pollutants to meet the visibility requirements of section 110(a)(2)(D)(i)(II), because carbon monoxide does not affect visibility. As a result, an infrastructure SIP submission for any future new or revised NAAQS for carbon monoxide need only state this fact in order to address the visibility prong of section 110(a)(2)(D)(i)(II).

Finally, EPA believes that its approach with respect to infrastructure SIP requirements is based on a reasonable reading of sections 110(a)(1) and 110(a)(2) because the CAA provides other avenues and mechanisms to address specific substantive deficiencies in existing SIPs. These other statutory tools allow EPA to take appropriately tailored action, depending upon the nature and severity of the alleged SIP deficiency. Section 110(k)(5) authorizes EPA to issue a ''SIP call'' whenever the Agency determines that a state's SIP is substantially inadequate to attain or maintain the NAAQS, to mitigate interstate transport, or to otherwise comply with the CAA.[13] Section 110(k)(6) authorizes EPA to correct errors in past actions, such as past approvals of SIP submissions.[14] Significantly, EPA's determination that an action on a state's infrastructure SIP submission is not the appropriate time and place to address all potential existing SIP deficiencies does not preclude EPA's subsequent reliance on provisions in section 110(a)(2) as part of the basis for action to correct those deficiencies at a later time. For example, although it may not be appropriate to

[12] By contrast, EPA notes that if a state were to include a new provision in an infrastructure SIP submission that contained a legal deficiency, such as a new exemption for excess emissions during SSM events, then EPA would need to evaluate that provision for compliance against the rubric of applicable CAA requirements in the context of the action on the infrastructure SIP.

[13] For example, EPA issued a SIP call to Utah to address specific existing SIP deficiencies related to the treatment of excess emissions during SSM events. See ''Finding of Substantial Inadequacy of Implementation Plan; Call for Utah State Implementation Plan Revisions,'' 74 FR 21639 (April 18, 2011).

[14] EPA has used this authority to correct errors in past actions on SIP submissions related to PSD programs. See ''Limitation of Approval of Prevention of Significant Deterioration Provisions Concerning Greenhouse Gas Emitting-Sources in State Implementation Plans; Final Rule,'' 75 FR 82536 (December 30, 2010). EPA has previously used its authority under CAA section 110(k)(6) to remove numerous other SIP provisions that the Agency determined it had approved in error. See, *e.g.,* 61 FR 38664 (July 25, 1996) and 62 FR 34641 (June 27, 1997) (corrections to American Samoa, Arizona, California, Hawaii, and Nevada SIPs); 69 FR 67062 (November 16, 2004) (corrections to California SIP); and 74 FR 57051 (November 3, 2009) (corrections to Arizona and Nevada SIPs).

require a state to eliminate all existing inappropriate director's discretion provisions in the course of acting on an infrastructure SIP submission, EPA believes that section 110(a)(2)(A) may be among the statutory bases that EPA relies upon in the course of addressing such deficiency in a subsequent action.[15]

IV. EPA's Evaluation of New Mexico's 2008 Pb NAAQS Infrastructure Submission

On September 9, 2011, the State of New Mexico, by letter from the Governor of New Mexico, submitted a SIP revision to address the infrastructure SIP requirements for the 2008 Pb NAAQS. The SIP submission offers a demonstration that New Mexico's existing SIP satisfies all infrastructure SIP elements required by section 110(a)(2) of the CAA for the 2008 Pb NAAQS. Public notice and a public hearing were provided by the State of New Mexico when developing this SIP submission. This SIP submission became complete by operation of law on March 9, 2012. See CAA section 110(k)(1)(B). EPA has reviewed New Mexico's infrastructure SIP submission and the relevant statutory and regulatory authorities and provisions referenced in that submission or referenced in New Mexico's SIP. Below is EPA's evaluation of how the State addressed the applicable elements of section 110(a)(2) for the 2008 Pb NAAQS. For additional information on our evaluation of the State's infrastructure SIP submittal, please refer to the Technical Support Document in the rulemaking docket.

A. Emission Limits and Other Control Measures

The CAA section 110(a)(2)(A) requires SIPs to include enforceable emission limits and other control measures, means or techniques, schedules for compliance and other related matters as needed to implement, maintain and enforce each of the NAAQS.[16]

New Mexico's Environmental Improvement Act and Air Quality Control Act authorize the New Mexico Environment Department (NMED) to regulate air quality and implement air quality control regulations. Specifically, the New Mexico Air Quality Control Act delegates authority to the Environmental Improvement Board (EIB) to adopt, promulgate, publish, amend and repeal regulations consistent with the State's Air Quality Control Act to attain and maintain NAAQS and prevent or abate air pollution (see New Mexico Statutes Annotated (NMSA) 1978 74–2–5(B)(1)). The Air Quality Control Act also designates the NMED as the State's air pollution control agency, and the Environmental Improvement Act provides the NMED with enforcement authority. These statutes have been approved into the SIP (see 44 FR 21019, April 9, 1979; revised 49 FR 44101, November 2, 1984; re-codified and approved in 62 FR 50518, September 26, 1997).

NMED's air quality rules and standards are codified at Title 20 Environmental Protection, Chapter 2 Air Quality (Statewide) of the NMAC. Numerous parts of the regulations codified into Chapter 2 necessary for implementing and enforcing the NAAQS have been adopted into the SIP. These include Part 1 *General Provisions* (75 FR 48860), Part 2 *Definitions* (62 FR 50514), Part 3 *Ambient Air Quality Standards* (76 FR 41698), Part 5 *Source Surveillance* (62 FR 50514), Part 7 *Excess Emissions* (74 FR 46910), and Part 8 *Emissions Leaving New Mexico* (62 FR 50514). Collectively these regulations identify the Air Quality Bureau's powers and responsibilities, define air quality standards, authorize monitoring, sampling and testing for emissions, and regulate interstate transport of emissions originating in New Mexico. The regulations and standards in Parts 10–61 pertain to emissions of certain pollutants from specific emission sources, activities and locales, and last full approval of these regulations into the SIP was made on September 26, 1997 (62 FR 50514). Permitting requirements, emissions reporting, and fees are regulated by Parts 72 Construction Permits (62 FR 50514), Part 73 Notice of Intent and Emissions Inventory Requirements (75 FR 48860), Part 74 Permits—Prevention of Significant Deterioration (76 FR 43149), Part 75 Construction Permit Fees (77 FR 18923), Part 79 Permits—Nonattainment Areas (72 FR 50879), and Part 80 Stack Heights (62 FR 50514). EPA's NAAQS, including the 2008 Pb NAAQS, are adopted by reference into these permitting regulations. Conformity requirements and transportation-related emissions are regulated under Part 99 Conformity to the State Implementation Plan of Transportation Plans, Programs, and Projects (65 FR 14873 and 75 FR 21169).

Based upon review of the State's infrastructure SIP submission for the 2008 Pb NAAQS, and relevant statutory and regulatory authorities and provisions referenced in the submission or referenced in New Mexico's SIP, EPA believes that the New Mexico SIP adequately addresses the requirements of section 110(a)(2)(A) for the 2008 Pb NAAQS and is proposing to approve this element of the September 9, 2011, SIP submission.

B. Ambient Air Quality Monitoring/Data System

The CAA section 110(a)(2)(B) requires SIPs to include provisions to provide for establishment and operation of ambient air quality monitors, collection and analysis of ambient air quality data, and making these data available to EPA upon request.

To address this element, the Air Quality Control Act at Section NMSA 1978, section 74–2–5 provides the enabling authority necessary for the New Mexico EIB and NMED to fulfill the requirements of section 110(a)(2)(B). The Air Quality Bureau (AQB) within NMED implements these requirements. Along with their other duties, the AQB collects air monitoring data, quality-assures the results, and reports the data.

Historically, EPA has promulgated regulations in 40 CFR 58 (Ambient Air Quality Surveillance), indicating the necessary data states need to collect and submit as part of their SIPs. For the 2008 Pb NAAQS, EPA regulations require that ambient monitoring be conducted in every urban area with National Core (''NCore'') monitoring sites and with populations equal to or exceeding 500,000 people, and that ''source-oriented'' monitoring be conducted in the vicinity of any stationary point sources that emit Pb in amounts exceeding 1,000 pounds per year.

The New Mexico statewide air quality surveillance network was approved into the New Mexico SIP by EPA on August 6, 1981 (46 FR 40005). Furthermore, New Mexico's air quality surveillance network undergoes recurrent annual review by EPA, as required by 40 CFR 58.10. On July 15, 2013, NMED

[15] See, *e.g.,* EPA's disapproval of a SIP submission from Colorado on the grounds that it would have included a director's discretion provision inconsistent with CAA requirements, including section 110(a)(2)(A). See, *e.g.,* 75 FR 42342 at 42344 (July 21, 2010) (proposed disapproval of director's discretion provisions); 76 FR 4540 (Jan. 26, 2011) (final disapproval of such provisions).

[16] The specific nonattainment area plan requirements of section 110(a)(2)(I) are subject to the timing requirements of section 172, not the timing requirement of section 110(a)(1). Thus, section 110(a)(2)(A) does not require that states submit regulations or emissions limits specifically for attaining the 2008 Pb NAAQS. Those SIP provisions are due as part of each state's attainment plan, and will be addressed separately from the requirements of section 110(a)(2)(A). In the context of an infrastructure SIP, EPA is not evaluating the existing SIP provisions for this purpose. Instead, EPA is only evaluating whether the state's SIP has basic structural provisions for the implementation of the NAAQS.

submitted its 2013 Annual Air Monitoring Network Plan (AAMNP) that included ambient monitoring for the 2008 Pb NAAQS, and EPA approved the 2013 AAMNP on February 19, 2014.[17] In addition, NMED conducts a recurrent assessment of its monitoring network every five years, which includes an evaluation of the need to conduct ambient monitoring for Pb, as required by 40 CFR 58.10(d). The most recent of these 5-year monitoring network assessments was conducted by NMED and submitted in June 2010, and was subsequently approved by EPA.[18] In evaluating the need to perform ambient monitoring for Pb in its most recent 5-year monitoring network assessment, NMED concluded that no ambient monitoring network for Pb was necessary because there are no urban areas with populations equal to or exceeding 500,000 people within its area of jurisdiction [19] and because there are no stationary point sources anywhere within New Mexico or in close proximity to its borders that emit Pb in quantities exceeding 1,000 pounds per year. We have verified through the National Emission Inventory System that no stationary sources exist within New Mexico that emit Pb in quantities equal to or exceeding 1,000 pounds per year,[20] and through review of the most recently available census data we have confirmed that there are no metropolitan areas with populations of 500,000 or more people within NMED's area of jurisdiction. NMED will continue to evaluate the need to conduct ambient monitoring for Pb every five years when it performs its recurrent ambient monitoring network assessment.

The AQB makes NMED's ambient monitoring data available for public review on its Web site.[21] The NMED Web site provides the monitor locations and posts past and current concentrations of criteria pollutants measured in the State's network of monitors.[22] The NMED monitors that are not certified as meeting the federal requirements are identified as ''non-regulatory'' monitors.[23] The State submits air monitoring data to EPA on a quarterly basis and certifies the data annually.

Based upon review of the State's infrastructure SIP submission for the 2008 Pb NAAQS, and relevant statutory and regulatory authorities and provisions referenced in the submission or referenced in New Mexico's SIP, EPA believes that the New Mexico SIP meets the requirements of section 110(a)(2)(B) for the 2008 Pb NAAQS and is proposing to approve this element of the September 9, 2011 submission.

C. Program for Enforcement of Control Measures (PSD, New Source Review for Nonattainment Areas, and Construction and Modification of All Stationary Sources

The CAA section 110(a)(2)(C) requires states to include the following three elements in the SIP: (1) A program providing for enforcement of all SIP measures described in section 110(a)(2)(A); (2) a program for the regulation of the modification and construction of stationary sources as necessary to protect the applicable NAAQS (*i.e.,* state-wide permitting of minor sources); and (3) a permit program to meet the major source permitting requirements of the CAA (for areas designated as attainment or unclassifiable for the NAAQS in question).[24]

1. Enforcement of SIP Measures

With respect to enforcement of requirements of the SIP, the New Mexico statutes provide authority for the Environmental Improvement Board and the NMED to enforce the requirements of the Air Quality Control Act, and any regulations, permits, or final compliance orders issued under the provisions of the Act. General enforcement authority is provided by NMSA 1978 74–1 and NMSA 1978 74–2, which address general enforcement power; investigation and remediation agreements; civil and criminal penalties; compliance orders and emergency cease and desist orders; civil actions; a field citation program.

The Environmental Improvement Act, which has been approved into the SIP (49 FR 44101; 64 FR 29255), authorizes the creation of the Environmental Improvement Board (NMSA 1978, section 74–1–4); authorizes the EIB, the NMED, and its Secretary to file lawsuits, conduct investigations and enter into remediation agreements, enforce rules, regulations and orders promulgated by the EIB, and collect civil penalties (NMSA 1978, section 74–1–6); develop and enforce rules and standards related to protection of air quality (NMSA 1978, sections 74–1–7 and 74–1–8); and issue compliance orders and commence civil actions in response to violations (NMSA 1978, section 74–1–10).

Likewise, the Air Quality Control Act empowers the EIB and NMED to institute legal proceedings to compel compliance with the Air Quality Control Act and any regulations of the EIB or local air quality control agencies (NMSA 1978, section 74–2–5.1); issue compliance orders, commence civil actions, and issue field citations (NMSA1978, section 74–2–12); assess civil penalties for violations of the Act or regulations promulgated under it or permits issued (NMSA 1978, section 74–2–12.1); conduct inspections of regulated entities (NMSA 1978, section 74–2–13); and pursue criminal prosecutions (NMSA 1978, section 74–2–14). Additional enforcement authorities and funding mechanisms are provided by the Act at NMSA 1978, section 74–2–15. These sections of the Air Quality Control Act were adopted into the SIP on November 2, 1984 (49 FR 44101).

NMED air quality standards and regulations containing specific enforcement provisions and adopted into the SIP include: 20.2.7 NMAC *Excess Emissions* (74 FR 46910) and 20.2.72 NMAC *Construction Permits* (38 FR 12702 and 62 FR 50514).

2. Minor New Source Review

Section 110(a)(2)(C) also requires that the SIP include measures to regulate construction and modification of stationary sources to protect the NAAQS. With respect to smaller statewide minor sources Section 110(a)(2)(C) creates ''a general duty on states to include a program in their SIP that regulates the modification and construction of any stationary source as

[17] A copy of the 2013 AAMNP and EPA's approval letter are included in the docket for this proposed rulemaking.

[18] A copy of the 2010 5-year ambient monitoring network assessment and EPA's approval letter are included in the docket for this proposed rulemaking.

[19] The Albuquerque metropolitan area, centered on the city of Albuquerque in Bernalillo County, contains more than 500,000 people, but Bernalillo County is not within the jurisdiction of NMED. The local air quality district for Albuquerque and Bernalillo County is responsible for conducting ambient Pb monitoring for the Albuquerque area.

[20] An inventory of stationary sources located in New Mexico that emit Pb, based on the 2011 triennial NEI, is included in the Technical Support Document, available in the docket for this proposed rulemaking.

[21] See *http://www.nmenv.state.nm.us/aqb/monitor/airmonitoringnetwork.html.*

[22] See *http://air.nmenv.state.nm.us.*

[23] These include for example, special purpose monitors (SPMs). Special purpose monitoring is conducted on a frequent basis for a variety of reasons: As a tool to supplement state ambient air monitoring networks to obtain information on where to locate permanent monitoring stations, to provide additional data in support of pollutant formation and transport analyses, or to assess air quality in a particular location. These studies vary in duration from being temporary sites needed only during a portion of the year to long-term air pollution studies over a large area.

[24] As discussed in further detail below, this infrastructure SIP rulemaking will not address the New Mexico program for provisions related to nonattainment areas, since EPA considers evaluation of these provisions to be outside the scope of infrastructure SIP actions.

necessary to assure that the NAAQS are achieved'' (70 FR 71612 and 71677). EPA provides states with discretion in implementing their Minor NSR programs (71 FR 48696 and 48700). The ''considerably less detailed'' regulations for Minor NSR are provided in 40 CFR 51.160 through 51.164. EPA has determined that New Mexico's Minor NSR program adopted pursuant to section 110(a)(2)(C) of the Act regulates emissions of all regulated air contaminants for which there is a NAAQS (see 20.2.72.200 NMAC). New Mexico's Minor NSR permitting requirements are found at 20.2.72 NMAC—*Construction Permits* and were approved into the SIP on May 14, 1973 (38 FR 12702), with revisions approved on September 26, 1997 (62 FR 50514), June 13, 2012 (77 FR 35273), and March 11, 2013 (78 FR 15296).

In this action, EPA is proposing to approve New Mexico's infrastructure SIP for the 2008 Pb standard with respect to the general requirement in section 110(a)(2)(C) to include a program in the SIP that regulates the modification and construction of any stationary source as necessary to assure that the NAAQS are achieved. However, EPA is not proposing to approve or disapprove New Mexico's existing Minor NSR program to the extent that it may be inconsistent with EPA's regulations governing this program. EPA has maintained that the CAA does not require that new infrastructure SIP submissions correct any defects in existing EPA-approved provisions of minor NSR programs in order for EPA to approve the infrastructure SIP for element C (*e.g.,* 76 FR 41076–41079). EPA believes that a number of states may have Minor NSR provisions that are contrary to the existing EPA regulations for this program. EPA intends to work with states to reconcile state Minor NSR programs with EPA's regulatory provisions for the program. The statutory requirements of section 110(a)(2)(C) provide for considerable flexibility in designing Minor NSR programs, and EPA believes it may be time to revisit the regulatory requirements for this program to give the states an appropriate level of flexibility to design a program that meets their particular air quality concerns, while assuring reasonable consistency across the country in protecting the NAAQS with respect to new and modified minor sources.

3. Prevention of Significant Deterioration (PSD) Permit Program

New Mexico also has a program approved by EPA as meeting the requirements of part C, relating to prevention of significant deterioration of air quality. In order to demonstrate that New Mexico has met this sub-element, this PSD program must cover requirements not just for the 2008 Pb NAAQS, but for all other regulated NSR pollutants as well.

PSD programs apply in areas that are meeting the NAAQS, referred to as areas in attainment, and in areas for which there is insufficient information to designate as either attainment or nonattainment, referred to as unclassifiable areas. New Mexico's PSD program was conditionally approved into the SIP on February 27, 1987 (52 FR 5964) and fully approved on August 15, 2011 (76 FR 41698). Revisions to New Mexico's PSD program were approved into the SIP on August 21, 1990 (55 FR 34013), May 2, 1991 (56 FR 20137), October 15, 1996 (61 FR 53639), March 10, 2003 (68 FR 11316), December 24, 2003 (68 FR 74483), September 5, 2007 (72 FR 50879), November 26, 2010 (75 FR 72688) and July 20, 2011 (76 FR 43149). Additionally, on June 11, 2009 and May 23, 2011, New Mexico submitted to EPA SIP revisions that revise the State's PSD and NNSR permitting regulations to address the permitting requirements associated with the NAAQS for 8-hour ozone and $PM_{2.5}$, respectively. EPA approved the portions of the June 11, 2009 submittal associated with implementing NO_X as a precursor (75 FR 72688) as necessary to implement the 1997 ozone standard. EPA approved the May 23, 2011, revision in a **Federal Register** notice signed January 22, 2013, as these elements are necessary for implementation of the $PM_{2.5}$ standard (78 FR 4339).

The 2008 Pb NAAQs are substantially lower than the previous Pb NAAQs, and this may require EPA to revise the PSD applicability thresholds in the future, with regard to Pb emissions. However, at this time EPA has not proposed to amend the PSD regulations with regard to the 2008 Pb NAAQS. We do, however, recognize that certain provisions of these regulations still may need to be evaluated and potentially revised in light of the revised Pb standard, particularly with regards to applicability thresholds for increases in emissions resulting from the construction of new sources or modifications to existing sources.

With respect to the infrastructure elements contained in section 110(a)(2)(C) and (J), EPA interprets the Clean Air Act to require each state to make an infrastructure SIP submission for a new or revised NAAQS that demonstrates that the air agency has a complete PSD permitting program meeting the current requirements for all regulated NSR pollutants. The requirements of section 110(a)(2)(D)(i)(II) may also be satisfied by demonstrating the air agency has a complete PSD permitting program correctly addressing all regulated NSR pollutants. New Mexico has shown that it currently has a PSD program in place that covers all regulated NSR pollutants, including greenhouse gases (GHGs).

On June 23, 2014, the United States Supreme Court issued a decision addressing the application of PSD permitting requirements to GHG emissions. (see Utility Air Regulatory Group v. Environmental Protection Agency, 134 S.Ct. 2427) The Supreme Court said that the EPA may not treat GHGs as an air pollutant for purposes of determining whether a source is a major source required to obtain a PSD permit. The Court also said that the EPA could continue to require that PSD permits, otherwise required based on emissions of pollutants other than GHGs, contain limitations on GHG emissions based on the application of Best Available Control Technology (BACT). In order to act consistently with its understanding of the Court's decision pending further judicial action to effectuate the decision, the EPA is not continuing to apply EPA regulations that would require that SIPs include permitting requirements that the Supreme Court found impermissible. Specifically, EPA is not applying the requirement that a state's SIP-approved PSD program require that sources obtain PSD permits when GHGs are the only pollutant (i) that the source emits or has the potential to emit above the major source thresholds, or (ii) for which there is a significant emissions increase and a significant net emissions increase from a modification (*e.g.* 40 CFR 51.166(b)(48)(v)). EPA anticipates a need to revise federal PSD rules in light of the Supreme Court opinion. In addition, EPA anticipates that many states will revise their existing SIP-approved PSD programs in light of the Supreme Court's decision. The timing and content of subsequent EPA actions with respect to the EPA regulations and state PSD program approvals are expected to be informed by additional legal process before the United States Court of Appeals for the District of Columbia Circuit. At this juncture, EPA is not expecting states to have revised their PSD programs for purposes of infrastructure SIP submissions and is only evaluating such submissions to assure that the state's program correctly addresses GHGs consistent with the Supreme Court's decision.

EPA has previously approved New Mexico SIP revisions submitted to align

the State's PSD program rules for GHGs with federal requirements (76 FR 43149). At present, EPA has determined the New Mexico SIP is sufficient to satisfy the infrastructure elements of sections 110(a)(2)(C), (D)(i)(II), and (J) with respect to GHGs because the PSD permitting program previously approved by EPA into the SIP continues to require that PSD permits (otherwise required based on emissions of pollutants other than GHGs) contain limitations on GHG emissions based on the application of BACT. Although the approved New Mexico PSD permitting program may currently contain provisions that are no longer necessary in light of the Supreme Court decision, this does not render the infrastructure SIP submission inadequate to satisfy the infrastructure elements of sections 110(a)(2)(C), (D)(i)(II), and (J). The SIP contains the necessary PSD requirements at this time, and the application of those requirements is not impeded by the presence of other previously-approved provisions regarding the permitting of sources of GHGs that EPA does not consider necessary at this time in light of the Supreme Court decision. Accordingly, the Supreme Court decision does not affect EPA's proposed approval of New Mexico's infrastructure SIP as to the requirements of the infrastructure elements of sections 110(a)(2)(C), (D)(i)(II), and (J).

Based upon review of the State's infrastructure SIP submission for the 2008 Pb NAAQS, and relevant statutory and regulatory authorities and provisions referenced in the submission or referenced in New Mexico's SIP, with respect to the requirements of section 110(a)(2)(C) for the 2008 Pb NAAQS, EPA is proposing to approve this element of the September 9, 2011, submission.

D. Interstate and International Transport

The CAA section 110(a)(2)(D)(i) includes four requirements referred to as prongs 1 through 4. Prongs 1 and 2 are provided at section 110(a)(2)(D)(i)(I), and prongs 3 and 4 are provided at section 110(a)(2)(D)(i)(II). Section 110(a)(2)(D)(i)(I) requires SIPs to include adequate provisions prohibiting any source or other type of emissions activity in one state from contributing significantly to nonattainment, or interfering with maintenance, of any NAAQS in another state. Section 110(a)(2)(D)(i)(II) requires SIPs to include adequate provisions prohibiting any source or other type of emissions activity in one state from interfering with measures required of any other state to prevent significant deterioration of air quality or to protect visibility.

With respect to prongs 1 and 2, the physical properties of Pb, which is very dense, prevent Pb emissions from experiencing a significant degree of travel in the ambient air. No complex chemistry is needed to form Pb or Pb compounds in the ambient air; therefore, ambient concentrations of Pb are typically highest near Pb sources. More specifically, there is a sharp decrease in ambient Pb concentrations as the distance from the source increases. According to EPA's report entitled *Our Nation's Air: Status and Trends Through 2010,* Pb concentrations that are not near a source of Pb are approximately 8 times less than the typical concentrations near the source.[25] For these reasons, EPA believes that the requirements of prongs 1 and 2 can be satisfied through a state's assessment as to whether a lead source located within its state in close proximity to a state border has emissions that contribute significantly to the nonattainment in or interfere with maintenance of the NAAQS in the neighboring state.

There are no areas within the State of New Mexico that are designated as nonattainment with respect to the 2008 Pb NAAQS, and there are no significant sources of Pb emissions within the State that emit Pb in amounts equal to or exceeding 0.5 tons per year, and no sources of Pb emissions within two miles of a neighboring state line. Total Pb emissions within New Mexico (including Albuquerque/Bernalillo County, which is outside NMED's jurisdiction) in 2011 were less than two tons, and most of the Pb-emitting sources within the State are general aviation airports where aviation gasoline containing tetra-ethyl lead is still in use. Therefore, we deem that New Mexico has presumptively satisfied the requirements of prongs 1 and 2.

With respect to the PSD requirements of section 110(a)(2)(D)(i)(II)—prong 3, we note that New Mexico's satisfaction of the applicable infrastructure SIP PSD requirements for attainment/unclassifiable areas with regards to the 2008 Pb NAAQS have been detailed in the section addressing section 110(a)(2)(C). For sources not subject to PSD for any one of the pollutants subject to regulation under the CAA because they are in a nonattainment area for a NAAQS, New Mexico has adopted the nonattainment new source review (NNSR) provisions required for the 2008 Pb NAAQS and other NAAQS at 20.2.79 NMAC—*Permits—Nonattainment Areas.*

With regard to the applicable requirements for visibility protection of section 110(a)(2)(D)(i)(II)—prong 4, significant impacts from Pb emissions from stationary sources are expected to be limited to short distances from the source and most, if not all, stationary sources of Pb emissions are located at sufficient distances from Class I areas such that visibility impacts would be negligible. Although Pb can be a component of coarse and fine particles, Pb generally comprises only a small fraction of coarse and fine particles. A recent agency study conducted to evaluate the extent that Pb could impact visibility concluded that Pb-related visibility impacts at Class I areas were found to be insignificant (*e.g.,* less than 0.10%).[26]

Section 110(a)(2)(D)(ii) also requires that the SIP ensure compliance with the applicable requirements of sections 126 and 115 of the CAA, relating to interstate and international pollution abatement, respectively. Section 126(a) of the CAA requires new or modified sources to notify neighboring states of potential impacts from sources within the State. New Mexico regulations require that affected states receive notice prior to the commencement of any construction or significant modification of a major source. New Mexico's rule concerning PSD construction permits at 20.2.74 NMAC—*Permits—Prevention of Significant Deterioration* requires that the review of all PSD permit applications follows the procedures of 20.2.74.400 NMAC—*Public Participation and Notification* and 20.2.74.403 NMAC—*Additional Requirements for Sources Impacting Class I Federal Areas,* which require the permitting authority to provide neighboring states, tribal authorities, and Federal Land Managers of affected Class I Areas with copies of PSD permit applications received by the department and to issue a preliminary determination for public comment, with notification to affected states, tribal authorities, and Federal Land Managers of affected Class I Areas on or before the time notice is provided to the public. In addition, no source or sources located in New Mexico have been identified by EPA as having any interstate impacts under section 126 in any pending actions relating to any air pollutant.

Section 115 of the CAA authorizes EPA to require a state to revise its SIP

[25] *http://www.epa.gov/airtrends/2011/report/fullreport.pdf*

[26] Analysis by Mark Schmidt, OAQPS, ''Ambient Pb's Contribution to Class I Area Visibility Impairment,'' June 17, 2011.

under certain conditions to alleviate international transport into another country. There are no final findings under section 115 of the CAA against New Mexico with respect to any air pollutant. Thus, the State's SIP does not need to include any provisions to meet the requirements of section 115.

Based upon review of the State's infrastructure SIP submission for the 2008 Pb NAAQS, and relevant statutory and regulatory authorities and provisions referenced in the submission or referenced in New Mexico's SIP, EPA believes that New Mexico has the adequate infrastructure needed to address sections 110(a)(2)(D)(i)(I) and (II)—prongs 1 through 4, and 110(a)(2)(D)(ii) for the 2008 Pb NAAQS and is proposing to approve this element of the September 9, 2011, submission.

E. Adequate Authority, Resources, Implementation, and Oversight

The CAA section 110(a)(2)(E) requires that SIPs provide for the following: (1) Necessary assurances that the state (and other entities within the state responsible for implementing the SIP) will have adequate personnel, funding, and authority under state or local law to implement the SIP, and that there are no legal impediments to such implementation; (2) requirements that the state comply with the requirements relating to state boards, pursuant to section 128 of the CAA; and (3) necessary assurances that the state has responsibility for ensuring adequate implementation of any plan provision for which it relies on local governments or other entities to carry out that portion of the plan.

Section 110(a)(2)(E)(i) requires states to establish that they have adequate personnel, funding and authority to implement the NAAQS. With respect to adequacy of authority, we have previously discussed New Mexico's statutory and regulatory authority to implement the 2008 Pb NAAQS, primarily in the discussion of section 110(a)(2)(A) above.

With respect to adequacy of resources, NMED asserts that it has adequate personnel to implement the SIP. The infrastructure SIP submission for the 2008 Pb NAAQS describes the regulations governing the various functions of personnel within the Air Quality Bureau, including the administrative, technical support, planning, enforcement, and permitting functions of the program.

With respect to funding, the Air Quality Control Act at NMSA 1978, section 74–2–7 requires NMED to establish an emissions fee schedule for sources in order to fund the reasonable costs of administering various air pollution control programs and also authorizes NMED to collect additional fees necessary to cover reasonable costs associated with processing of air permit applications. The Air Quality Control Act provides for the deposit of the fees into various subaccounts (*e.g.,* the State's air quality permit fund for the Title V operating permit program used for Title V implementation activities; and various subaccounts for local air quality agencies). NMED also receives funding from general revenue funds and EPA grants under, for example, sections 103 and 105 of the CAA, to finance air quality programs. EPA conducts periodic program reviews to ensure that the State has adequate resources and funding to, among other things, implement the SIP.

With respect to authority, the Air Quality Control Act at NMSA 1978, section 74–2–5 provides the authority necessary to carry out the SIP requirements as referenced above in element A. The Air Quality Control Act provides the NMED with broad legal authority to adopt emission standards and compliance schedules applicable to regulated entities, and to adopt emission standards and limitations and any other measures necessary for attainment and maintenance of national standards. The Act also provides the board adequate legal authority to enforce applicable laws, regulations, standards, and compliance schedules, and seek injunctive relief. In addition, section 74–2–5.1 of the Act provides the department legal authority to enforce applicable laws, regulations, standards, and compliance schedules.

With regard to the conflict of interest provisions of section 128 of the CAA, section 110(a)(2)(E)(ii) requires that each state SIP meet the requirements of section 128, relating to representation on state boards and conflicts of interest by members of such boards. Section 128(a)(1) requires that any board or body which approves permits or enforcement orders under the CAA must have at least a majority of members who represent the public interest and do not derive any ''significant portion'' of their income from persons subject to permits and enforcement orders under the CAA. Section 128(a)(2) requires that members of such a board or body, or the head of an agency with similar powers, adequately disclose any potential conflicts of interest.

The Environmental Improvement Act at NMSA 1978, section 74–1–4 provides that the Environmental Improvement Board contain at least a majority of members who represent the public interest and do not derive any significant portion of their income from persons subject to or who appear before the board on issues related to the Clean Air Act or Air Quality Control Act. Furthermore, pursuant to State regulations adopted by the Board, Board members are required to recuse themselves from rule-makings in which their impartiality may reasonably be questioned. (see 20.1.1.111 NMAC).

With respect to assurances that the State has responsibility to implement the SIP adequately when it authorizes local or other agencies to carry out portions of the plan, the Environmental Improvement Act and the Air Quality Control Act designate the NMED as the primary air pollution control agency ''for all purposes'' of implementing the requirements of the federal Clean Air Act and the New Mexico Air Quality Control Act.

There is one local air quality control agency that assumes jurisdiction for local administration and enforcement of the Air Quality Control Act in New Mexico, the Albuquerque/Bernalillo County Air Quality Control Board, as authorized by NMSA 1978, section 74–2–4. Pursuant to the New Mexico Air Quality Control Act, the local air quality control agency, within the boundaries of the Albuquerque/Bernalillo County area, is delegated all those functions delegated to the Environmental Improvement Board, with the exception of any functions reserved exclusively for the Environmental Improvement Board, NMSA 1978, section 74–2–4(A)(1). Further, The Air Quality Control Act, grants the local air quality control agency, within the boundaries of the Albuquerque/Bernalillo County area, the authority to perform all the duties required of NMED and exert all of the powers granted to NMED, except for those powers and duties reserved exclusively for the department, NMSA 1978, section 74–2–4(A)(2). However, the NMED and the State Environmental Improvement Board retain oversight authority in the event the local authority fails to act. EPA conducts reviews of the local program activities in conjunction with its oversight of the State program.

Based upon review of the State's infrastructure SIP submission for the 2008 Pb NAAQS and relevant statutory and regulatory authorities and provisions referenced in the submission or referenced in New Mexico's SIP, EPA believes that New Mexico has the adequate infrastructure needed to address section 110(a)(2)(E) for the 2008 Pb NAAQS and is proposing to approve this element of the September 9, 2011 submission.

F. Stationary Source Monitoring System

The CAA section 110(a)(2)(F) requires states to establish a system to monitor emissions from stationary sources and to submit periodic emission reports. Each SIP shall require the installation, maintenance, and replacement of equipment, and the implementation of other necessary steps, by owners or operators of stationary sources, to monitor emissions from such sources. The SIP shall also require periodic reports on the nature and amounts of emissions and emissions-related data from such sources, and requires that the state correlate the source reports with emission limitations or standards established under the CAA. These reports must be made available for public inspection at reasonable times.

To address this element, the Air Quality Control Act at NMSA 1978, section 4–2–5 authorizes the NMED to require persons engaged in operations which result in air pollution to monitor or test emissions and to file reports containing information relating to the nature and amount of emissions. State regulations pertaining to sampling and testing are codified at 20.2.72 NMAC *Construction Permits,* 20.2.70 NMAC *Operating Permits,* and 20.2.79 NMAC *Permits—Nonattainment Areas,* and requirements for reporting of emissions inventories are codified at 20.2.73 NMAC *Notice of Intent and Emission Inventory Requirements.* In addition, rules at 20.2.5 NMAC *Source Surveillance,* establish general requirements for maintaining records and reporting emissions.

The NMED uses this information, in addition to information obtained from other sources, to track progress towards maintaining the NAAQS, developing control and maintenance strategies, identifying sources and general emission levels, and determining compliance with emission regulations and additional EPA requirements. NMED makes this information available to the public (20.2.5 NMAC *Source Surveillance*). Provisions concerning the handling of confidential data and proprietary business information are included in the general provisions regulations at 20.2.1.115 NMAC, *Confidential Business Information.* These rules specifically exclude from confidential treatment any records concerning the nature and amount of emissions reported by sources.

Based upon review of the State's infrastructure SIP submission for the 2008 Pb NAAQS, and relevant statutory and regulatory authorities and provisions referenced in the submission or referenced in New Mexico's SIP, EPA believes that New Mexico has the adequate infrastructure needed to address CAA section 110(a)(2)(F) for the 2008 Pb NAAQS and is proposing to approve this element of the September 9, 2011, submission.

G. Emergency Authority

The CAA section 110(a)(2)(G) requires SIPs to provide for authority to address activities causing imminent and substantial endangerment to public health or welfare or the environment (comparable to the authorities provided in section 303 of the CAA), and to include contingency plans to implement such authorities as necessary.

In its submittal for the 2008 Pb NAAQS, the State of New Mexico emphasizes that there are currently no significant sources of Pb emissions within the State or in close enough proximity to the State borders that would have the potential to impact communities in New Mexico. Nevertheless, the State indicates that the Air Quality Control Act provides adequate authority to constrain any sources of Pb emissions, as necessary, in the unlikely event that an emergency situation should arise. Under the Air Quality Control Act at NMSA 1978, section 74–2–10, *Emergency Powers of the Secretary and the Director,* the Secretary and Director of NMED are empowered to bring suit to immediately restrain a facility causing emissions that present an imminent and substantial endangerment to public health, welfare, or the environment. Alternatively, the Air Quality Control Act authorizes the NMED Secretary and Director to issue orders necessary to protect the public health or welfare, or the environment, and then bring suit against contributing sources within 24 hours. If the NMED brings an action within that time, the order is effective for another 48 hours or for such longer period as may be authorized by the court pending litigation.

Based upon review of the State's infrastructure SIP submission for the 2008 Pb NAAQS, and relevant statutory and regulatory authorities and provisions referenced in that submission or referenced in New Mexico's SIP, EPA believes that the New Mexico SIP adequately addresses section 110(a)(2)(G) for the 2008 Pb NAAQS and is proposing to approve this element of the September 9, 2011, submission.

H. Future SIP Revisions

The CAA section 110(a)(2)(H) requires states to have the authority to revise their SIPs in response to changes in the NAAQS, availability of improved methods for attaining the NAAQS, or in response to an EPA finding that the SIP is substantially inadequate to attain the NAAQS.

New Mexico's Environmental Improvement Act and Air Quality Control Act authorize the NMED as the primary agency in the State concerned with environmental protection and enforcement of regulations, including but not limited to air quality (see NMSA 1978, sections 74–1 and 74–2). The Air Quality Control Act gives the NMED the authority to ''develop and present to the Environmental Improvement Board a plan for the control, regulation, prevention or abatement of air pollution . . . ,'' and authorizes the EIB to adopt such a plan (see NMSA 1978, sections 74–2–5.1(H) and 74–2–5(B)(2)). The Environmental Improvement Act also authorizes the New Mexico EIB to ''adopt, promulgate, publish, amend and repeal regulations consistent with the Air Quality Control Act to attain and maintain the national ambient air quality standards and prevent and abate air pollution . . .'' and the Environmental Improvement Act authorizes the NMED to enforce such rules, regulations and orders promulgated by the EIB (see NMSA 1978, sections 74–2–5(B)(1) and 74–1–6(F)). Furthermore, the Air Quality Control Act requires the NMED to, ''. . . advise, consult, contract with and cooperate with local authorities, other states, the federal government and other interested persons or groups in regard to matters of common interest in the field of air quality control . . .'' (see NMSA 1978, section 74–2–5.2(B)).

Thus, New Mexico has the authority to revise its SIP, as necessary, to account for revisions of the NAAQS, to adopt more effective methods of attaining the NAAQS, and to respond to EPA SIP calls. Based upon review of the State's infrastructure SIP submission for the 2008 Pb NAAQS, and relevant statutory and regulatory authorities and provisions referenced in the submission or referenced in New Mexico's SIP, EPA believes that New Mexico has adequate authority to address section 110(a)(2)(H) for the 2008 Pb NAAQS and is proposing to approve this element of the September 9, 2011, submission.

I. Nonattainment Areas

The CAA section 110(a)(2)(I) requires that in the case of a plan or plan revision for areas designated as nonattainment areas, states must meet applicable requirements of part D of the CAA, relating to SIP requirements for designated nonattainment areas.

As noted earlier, EPA does not expect infrastructure SIP submissions to

address subsection (I). The specific SIP submissions for designated nonattainment areas, as required under CAA title I, part D, are subject to different submission schedules than those for section 110 infrastructure elements. Instead, EPA will take action on part D attainment plan SIP submissions through a separate rulemaking process governed by the requirements for nonattainment areas, as described in part D.

J. Consultation With Government Officials, Public Notification, PSD and Visibility Protection

The CAA section 110(a)(2)(J) requires SIPs to meet the applicable requirements of the following CAA provisions: (1) Section 121, relating to interagency consultation regarding certain CAA requirements; (2) section 127, relating to public notification of NAAQS exceedances and related issues; and (3) part C of the CAA, relating to prevention of significant deterioration of air quality and visibility protection.

(1) With respect to interagency consultation, the SIP should provide a process for consultation with general-purpose local governments, designated organizations of elected officials of local governments, and any Federal Land Manager having authority over Federal land to which the SIP applies. New Mexico's Air Quality Control Act provides that ''no regulations or emission control requirement shall be adopted until after a public hearing by the environmental improvement board or the local board'' and that, ''at the hearing, the environmental improvement board or the local board shall allow all interested persons reasonable opportunity to submit data, views, or arguments orally or in writing and to examine witnesses testifying at the hearing'' (see NMSA 1978, sections 74–2–6(B) and (D)). In addition, the Air Quality Control Act provides that the NMED shall have the power and duty to ''advise, consult, contract with and cooperate with local authorities, other states, the federal government and other interested persons or groups in regard to matters of common interest in the field of air quality control . . .'' (see NMSA 1978, section 74–2–5.2(B)). Furthermore, New Mexico's PSD rules at 20.2.74.400 NMAC mandate that the NMED shall provide for public participation and notification regarding permitting applications to any other state or local air pollution control agencies, local government officials of the city or county where the source will be located, tribal authorities, and Federal Land Managers (FLMs) whose lands may be affected by emissions from the source or modification. Additionally, the State's PSD rules at 20.2.74.403 NMAC require the NMED to consult with FLMs regarding permit applications for sources with the potential to impact Class I Federal Areas (75 FR 72688 and 72 FR 50879). Finally, the State of New Mexico has committed in the SIP to consult continually with the FLMs on the review and implementation of the visibility program, and the State recognizes the expertise of the FLMs in monitoring and new source review applicability analyses for visibility and has agreed to notify the FMLs of any advance notification or early consultation with a major new or modifying source prior to the submission of the permit application (71 FR 4490). The State's Transportation Conformity rules at 20.2.99.116 through 20.2.99.124 NMAC provide procedures for interagency consultation, resolution of conflicts, and public notification (65 FR 14873 and 75 FR 21169).

(2) With respect to the requirements for public notification in section 127, the infrastructure SIP should provide citations to regulations in the SIP requiring the air agency to regularly notify the public of instances or areas in which any NAAQS are exceeded; advise the public of the health hazard associated with such exceedances; and enhance public awareness of measures that can prevent such exceedances and of ways in which the public can participate in the regulatory and other efforts to improve air quality. Provisions regarding public notification of instances or areas in which any primary NAAQS was exceeded were approved into the New Mexico SIP on August 24, 1983 (48 FR 38466). In addition, as discussed for infrastructure element B above, the NMED air monitoring Web site provides live air quality data for each of the monitoring stations in New Mexico.[27] The Web site also provides information on the health effects of ozone, particulate matter, and other criteria pollutants. Because no significant sources of Pb emissions are located within the State or in proximity to its borders, we do not anticipate that any circumstances of short-term exceedances or violations of the 2008 Pb NAAQS will occur in New Mexico.

(3) Regarding the applicable requirements of part C of the CAA, relating to prevention of significant deterioration of air quality and visibility protection, as noted above under infrastructure element C, the New Mexico SIP meets the PSD requirements. With respect to the visibility component of section 110(a)(2)(J), EPA recognizes that states are subject to visibility and regional haze program requirements under part C of the CAA, which includes sections 169A and 169B. However, when EPA establishes or revises a NAAQS, these visibility and regional haze requirements under part C do not change. Therefore, EPA believes that there are no new visibility protection requirements under part C as a result of a revised NAAQS, and consequently there are no newly applicable visibility protection obligations pursuant to infrastructure element J after the promulgation of a new or revised NAAQS.

Based upon review of the State's infrastructure SIP submission for the 2008 Pb NAAQS, and relevant statutory and regulatory authorities and provisions referenced in the submission or referenced in New Mexico's SIP, EPA believes that New Mexico has met the applicable requirements of section 110(a)(2)(J) for the 2008 Pb NAAQS in the State and is therefore proposing to approve this element of the September 9, 2011, submission.

K. Air Quality and Modeling/Data

The CAA section 110(a)(2)(K) requires that SIPs provide for performing air quality modeling, as prescribed by EPA, to predict the effects on ambient air quality of any emissions of any NAAQS pollutant, and for submission of such data to EPA upon request.

The NMED has the power and duty, under the Air Quality Control Act to ''develop facts and make investigations and studies,'' thereby providing for the functions of environmental air quality assessment (see NMSA 1978, section 74–2–5). Past modeling and emissions reductions measures have been submitted by the State and approved into the SIP. For example, the air modeling and control measures submitted within the attainment demonstration for the San Juan County Early Action Compact Area, approved by EPA and adopted into the SIP on August 17, 2005 (70 FR 48285). Additionally, New Mexico has the ability to perform modeling for the primary and secondary $PM_{2.5}$ standards and other criteria pollutant NAAQS on a case-by-case permit basis consistent with their SIP-approved PSD rules and with EPA protocols on Air Quality Models at 40 CFR part 51, Appendix W.

This section of the CAA also requires that a SIP provide for the submission of data related to such air quality modeling to the EPA upon request. The New Mexico Air Quality Control Act authorizes and requires NMED to

[27] See *http://www.nmenv.state.nm.us/aqb/monitor/airmonitoringnetwork.html.*

cooperate with the federal government and local authorities in regard to matters of common interest in the field of air quality control, thereby allowing the agency to make such submissions to the EPA (see NMSA 1978, section 74–2–5.2(B)).

Based upon review of the State's infrastructure SIP submission for the 2008 Pb NAAQS, and relevant statutory and regulatory authorities and provisions referenced in the submission or referenced in New Mexico's SIP, EPA believes that New Mexico has the adequate infrastructure needed to address section 110(a)(2)(K) for the 2008 Pb NAAQS and is proposing to approve this element of the September 9, 2011, submission.

L. Permitting Fees

The CAA section 110(a)(2)(L) requires SIPs to require each major stationary source to pay permitting fees to the permitting authority, as a condition of any permit required under the CAA, to cover the cost of reviewing and acting upon any application for such a permit, and, if the permit is issued, the costs of implementing and enforcing the terms of the permit. The fee requirement applies until a fee program established by the state pursuant to Title V of the CAA, relating to operating permits, is approved by EPA.

The Air Quality Control Act provides the EIB with the legal authority for establishing an emission fee schedule and a construction permit fee schedule to recover the reasonable costs of acting on permit applications, implementing, and enforcing permits.[28] New Mexico's fee schedule for construction permits is codified at 20.2.75 NMAC, *Construction Permit Fees.* These regulations implement a fee schedule for all preconstruction air permits issued by NMED and were approved by EPA into the SIP on September 16, 1991 (56 FR 32511) and November 25, 1997 (62 FR 50514).

In addition to preconstruction fees, New Mexico also requires major sources subject to the federal Title V operating permit program to pay annual operating permit fees. This operating permit fee schedule is codified at 20.2.71 NMAC, *Operating Permit Emission Fees.* Title V operating permit programs and associated fees legally are not part of the SIP, but were approved by EPA on November 26, 1996 (61 FR 60032) as part of the New Mexico Title V Program (see 40 CFR part 70, Appendix A).[29] EPA reviews the New Mexico Title V program, including Title V fee structure, separately from this proposed action. Because the Title V program and associated fees legally are not part of the SIP, the infrastructure SIP action we are proposing today does not preclude EPA from taking future action regarding New Mexico's Title V permitting program and associated fees.

Based upon review of the State's infrastructure SIP submission for the 2008 Pb NAAQS, and relevant statutory and regulatory authorities and provisions referenced in the submission or referenced in New Mexico's SIP, EPA believes that the requirements of section 110(a)(2)(L) are met and is proposing to approve this element of the September 9, 2011, submission.

M. Consultation/Participation by Affected Local Entities

The CAA section 110(a)(2)(M) requires SIPs to provide for consultation and participation by local political subdivisions affected by the SIP.

As described under the section addressing the requirements of element 110(a)(2)(J) above, regarding consultation with government officials and public notification, New Mexico's Air Quality Control Act provides that, ''no regulations or emission control requirement shall be adopted until after a public hearing by the environmental improvement board or the local board'' and provides that, ''at the hearing, the environmental improvement board or the local board shall allow all interested persons reasonable opportunity to submit data, views, or arguments orally or in writing and to examine witnesses testifying at the hearing'' (see NMSA 1978, section 74–2–6(B) and (D)). In addition, the Air Quality Control Act provides that the NMED shall have the power and duty to ''advise, consult, contract with and cooperate with local authorities, other states, the federal government and other interested persons or groups in regard to matters of common interest in the field of air quality control . . .'' (see NMSA 1978, section 74–2–5.2(B)). The Act also requires initiation of cooperative action between local authorities and the NMED, between one local authority and another, or among any combination of local authorities and the NMED for control of air pollution in areas having related air pollution problems that overlap the boundaries of political subdivisions; and entering into agreements and compacts with adjoining states and Indian tribes, where appropriate. NMED has a long history of successful cooperation with the local air quality authority in Albuquerque/Bernalillo County and tribal governments.

With regard to permitting actions, New Mexico's PSD regulations at 20.2.74.400 NMAC, approved into the SIP on March 30, 1987 (52 FR 5964) and December 16, 1996 (61 FR 53642), mandate that the NMED shall provide for public participation and notification regarding permitting applications to any other state or local air pollution control agencies, local government officials of the city or county where the source will be located, and Federal Land Managers whose lands may be affected by emissions from the source or modification. New Mexico's Transportation Conformity regulations at 20.2.99.116 and 20.2.99.124 NMAC, both approved into the SIP on April 23, 2010 (75 FR 21169), require that interagency consultation and opportunity for public involvement be provided before making transportation conformity determinations and before adopting applicable SIP revisions on transportation-related SIPs.

Based upon review of the State's infrastructure SIP submission for the 2008 Pb NAAQS, and relevant statutory and regulatory authorities and provisions referenced in the submission or referenced in New Mexico's SIP, EPA believes that New Mexico has the adequate infrastructure needed to address section 110(a)(2)(M) for the 2008 Pb NAAQS and is proposing to approve this element of the September 9, 2011 submission.

V. EPA's Evaluation of New Mexico's SIP Revision Repealing the Cement Kilns Rule

A. What is EPA's evaluation of the submittal?

As a part of NMED's initiative to enhance and stream line its permitting process a State report entitled ''Improving Environmental Permitting'' recommended repeal of NMAC 20.2.12—*Cement Kilns.* There are no cement kilns in NMED's jurisdictional area. There is a cement plant in New Mexico, but that plant is located in Bernalillo County, New Mexico which is not within NMED's area of jurisdiction. The current EPA-approved NMAC 20.2.12—*Cement Kilns* rule only regulates PM emissions from a kiln measured in terms of mass per volume

[28] See Environmental Improvement Act, Paragraph 4 of Subsection A of Section 74–1–8 NMSA 1978, and Air Quality Control Act, Chapter 74, Article 2 NMSA 1978, including specifically, Paragraph 6 of Subsection B of Section 74–2–7 NMSA 1978.

[29] As indicated in New Mexico's 2008 Pb infrastructure SIP submission, NEMD's operating permit fees regulation was inadvertently adopted into the SIP by EPA on November 25, 1997 (62 FR 50514). This regulation was removed from the SIP by EPA in a subsequent action on July 15, 2011 (76 FR 41698).

of exhaust gas (230 mg/m3). See section 108 of the repealed rule in the Technical Support Document (20.2.12.108 NMAC). Demonstrating compliance with this emission limit is less practical than demonstrating compliance with the comparable New Source Performance Standard (NSPS) because it is not clinker-production based, and it also lacks utility because no such source exists in NMED's area of jurisdiction. In other words, the current EPA-approved NMAC 20.2.12—*Cement Kilns* rule is outdated in format and superfluous.

Should a cement kiln locate within NMED's jurisdiction in the future, that source will be subject to new source review and New Source Performance Standard (NSPS) requirements. See 40 CFR 60, Subpart F. In addition, hazardous air pollutants from a cement kiln would be subject to National Emission Standards for Hazardous Air Pollutants (NESHAP), contained in 40 CFR 61; and Maximum Achievable Control Technology (MACT) standards contained in 40 CFR 63. See appendix A of the Technical Support Document prepared in conjunction with this rulemaking action. These emission standards and control requirements are more current, practical, and stringent than the existing NMAC 20.2.12—*Cement Kilns* rule emission limitation.

B. Does this submittal comply with section 110(l) of the Act?

Section 110(l) of the Act requires that a SIP revision submitted to EPA be adopted after reasonable notice and public hearing. Section 110(l) also requires that we not approve a SIP revision if the revision would interfere with any applicable requirement concerning attainment and reasonable further progress, or any other applicable requirement of the CAA. Records contained in the submittal show that State has complied with public hearing and reasonable notice requirements of the SIP. See Exhibit 9 of the submittal.

Furthermore; in support of its submittal to repeal NMAC 20.2.12—*Cement Kilns* rule the State provides the following factors: (a) Repeal of NMAC 20.2.12—*Cement Kilns* rule will benefit the State by removing potentially confusing and ambiguous provisions from the SIP and air permitting process; (b) the emission limits in NMAC 20.2.12—*Cement Kilns* rule are based on mass of particulate matter in the volume of stack gas, whereas, the NSPS emission limits are based on mass of PM per ton of clinker produced; (c) in addition to limiting emissions from the cement kilns, the NSPS limits emissions from the grinding, cooling and materials handling operations in the cement manufacturing process; (d) the method for demonstrating compliance with the PM emission limitation in section NMAC 20.2.12.108 is more complex and difficult than the corresponding NSPS requires; (e) currently, there are no cement manufacturing facilities under the jurisdiction of the NMED, and they do not anticipate any new kilns to be built in the near future (negative declaration). New Mexico substantiated this factor through consultation with the Air Quality Bureau's permitting staff, searching its database of facilities, the United States Geological Survey, and trade publications. See Exhibit 8 of the submittal.

In the unlikely event of a new cement plant locating in the area, then that source will be subject to existing, more stringent, appropriate federal requirements.

We have reviewed the above factors, and agree with the State's determination. The repeal of NMAC 20.2.12—*Cement Kilns* rule does not result in an increase in the amount of PM emissions. We are proposing a finding that section 110(l) has been complied with because there will be no SIP relaxation. Therefore, we are proposing to approve repeal of NMAC 20.2.12—*Cement Kilns* rule from the New Mexico SIP.

VI. Proposed Action

EPA is proposing to fully approve the September 9, 2011, infrastructure SIP submission from New Mexico, which addresses the requirements of CAA sections 110(a)(1) and (2) as applicable to the 2008 Pb NAAQS. Specifically, EPA is proposing to approve the following infrastructure elements, or portions thereof: Sections 110(a)(2)(A), (B), (C), (D)(i)(I), (D)(i)(II), (D)(ii), (E), (F), (G), (H), (J), (K), (L), and (M). As discussed in applicable sections of this rulemaking, EPA is not proposing action on section 110(a)(2)(I)—Nonattainment Area Plan or Plan Revisions Under Part D, nor on the visibility protection portion of section 110(a)(2)(J). Based upon review of the State's infrastructure SIP submission and relevant statutory and regulatory authorities and provisions referenced in this submission or referenced in New Mexico's SIP, EPA believes that New Mexico has the infrastructure in place to address all applicable required elements of sections 110(a)(1) and (2) (except otherwise noted) to ensure that the 2008 Pb NAAQS are implemented in the State. We are hereby soliciting comment on this proposed action. Final rulemaking will occur after consideration of any comments.

Additionally, we are proposing to approve the July 31, 2014, SIP revision repealing New Mexico Administrative Code (NMAC), Title 20 Environmental Protection, Chapter 2 Air Quality (Statewide), Part 12 Cement Kilns (NMAC 20.2.12—*Cement Kilns*) rule from the New Mexico SIP.

VII. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 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 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).

EPA is not proposing to approve this infrastructure SIP certification and repeal of the cement kilns rule 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, this proposed approval does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it impose substantial direct costs on tribal governments or preempt tribal law.

List of Subjects in 40 CFR Part 52

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

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

Dated: November 24, 2014.

Ron Curry,

Regional Administrator, Region 6.

[FR Doc. 2014–29091 Filed 12–10–14; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[Docket #: EPA–R10–OAR–2014–0808; FRL–9919–88–Region 10]

Approval and Promulgation of Air Quality Implementation Plans; Washington; Redesignation to Attainment for the Tacoma-Pierce County Nonattainment Area and Approval of Associated Maintenance Plan for the 2006 24-Hour Fine Particulate Matter Standard

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to redesignate to attainment the entire Tacoma-Pierce County nonattainment area (hereafter ''the Tacoma area'' or ''the area'') for the 2006 24-hour fine particulate matter ($PM_{2.5}$) national ambient air quality standard (NAAQS). The EPA is also proposing to approve as a revision to the Washington State Implementation Plan (SIP), the associated maintenance plan that provides for continued compliance of the 2006 24-hour $PM_{2.5}$ NAAQS. Additionally, the EPA is proposing to approve the 2017 and 2026 motor vehicle emissions budgets included in Washington's maintenance plan for $PM_{2.5}$ and nitrogen oxides (NO_X). In the course of proposing to approve redesignation of the Tacoma area, the EPA addresses a number of additional issues, including the effects of a January 4, 2013 decision by the United States Court of Appeals for the District of Columbia (D.C. Circuit or Court) to remand to the EPA two final rules implementing the 1997 $PM_{2.5}$ NAAQS.

DATES: Comments must be received on or before January 12, 2015.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R10–OAR–2014–0808, by any of the following methods:

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

B. *Mail:* Jeff Hunt, EPA Region 10, Office of Air, Waste and Toxics (AWT–107), 1200 Sixth Avenue, Suite 900, Seattle, WA 98101.

C. *Email: R10-Public_Comments@epa.gov.*

D. *Hand Delivery:* EPA Region 10 Mailroom, 9th Floor, 1200 Sixth Avenue, Suite 900, Seattle, WA 98101. Attention: Jeff Hunt, Office of Air, Waste and Toxics, AWT–107. Such deliveries are only accepted during normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–R10–OAR–2014–0808. The EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information the disclosure of which is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov* or email. The *www.regulations.gov* Web site is an ''anonymous access'' system, which means the EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to the EPA without going through *www.regulations.gov* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, the EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If the EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, the EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the electronic docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, *i.e.,* CBI or other information the disclosure of which is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy during normal business hours at the Office of Air, Waste and Toxics, EPA Region 10, 1200 Sixth Avenue, Seattle, WA 98101.

FOR FURTHER INFORMATION CONTACT: Jeff Hunt at (206) 553–0256, *hunt.jeff@epa.gov,* or by using the above EPA, Region 10 address.

SUPPLEMENTARY INFORMATION: Throughout this document wherever ''we'', ''us'' or ''our'' are used, it is intended to refer to the EPA.

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I. Background

The first air quality standards for $PM_{2.5}$ were established on July 16, 1997 (62 FR 38652, July 18, 1997). The EPA promulgated an annual standard at a level of 15 micrograms per cubic meter ($\mu g/m^3$), based on a three-year average of annual mean $PM_{2.5}$ concentrations (the 1997 annual $PM_{2.5}$ standard). In the same rulemaking action, the EPA promulgated a 24-hour standard of 65 $\mu g/m^3$, based on a three-year average of the 98th percentile of 24-hour concentrations. On October 17, 2006 (71 FR 61144), the EPA retained the annual average standard at 15 $\mu g/m^3$, but revised the 24-hour standard to 35 $\mu g/m^3$, based again on the three-year average of the 98th percentile of 24-hour

concentrations (the 2006 24-hour $PM_{2.5}$ standard or daily standard). On November 13, 2009 (74 FR 58688), the EPA published designations for the 2006 24-hour $PM_{2.5}$ NAAQS, which became effective on December 14, 2009. In that rulemaking action, the EPA designated the Tacoma area as nonattainment for the 2006 24-hour $PM_{2.5}$ NAAQS (see 77 FR 58774 and 40 CFR 81.348).

On September 4, 2012 (77 FR 53772), the EPA determined that the Tacoma area had attained the 2006 24-hour $PM_{2.5}$ NAAQS. Pursuant to 40 CFR 51.1004(c), in effect at that time, the requirements for the Tacoma area to submit an attainment demonstration and associated reasonably available control measures (RACM), a reasonable further progress (RFP) plan, contingency measures, and other planning SIPs related to the attainment of the 2006 24-hour $PM_{2.5}$ NAAQS are suspended until such time as: The area is redesignated to attainment, at which time the requirements no longer apply; or the EPA determines that the area has again violated the standard, at which time such plans are required to be submitted. On September 19, 2013 (78 FR 57503), the EPA finalized a subsequent determination of attainment considering the effect of the D.C. Circuit Court's January 4, 2013 decision to remand the implementation rule containing the provisions of 40 CFR 51.1004(c) on the area. *Natural Resources Defense Council* v. *EPA,* 706 F.3d 428 (2013). A full description of the EPA's rationale for the determination of attainment is contained in the proposal for that action (78 FR 42095, July 18, 2013).

A determination of attainment does not relieve a state from submitting, and the EPA from approving, certain planning SIP revisions for the 2006 $PM_{2.5}$ NAAQS. On November 28, 2012, Washington submitted a 2008 baseline emissions inventory for direct $PM_{2.5}$ and precursors to the formation of $PM_{2.5}$ including nitrogen oxides (NO_X), volatile organic compounds (VOCs), ammonia (NH_3), and sulfur dioxide (SO_2) to meet the comprehensive emissions inventory requirement of Clean Air Act (CAA) section 172(c) for the 2006 24-hour $PM_{2.5}$ NAAQS. Also included in Washington's submittal were SIP strengthening rules to implement the recommendations of the Tacoma-Pierce County Clean Air Task Force, an advisory committee of community leaders, citizen representatives, public health advocates, and other affected parties, formed to develop $PM_{2.5}$ reduction strategies. These SIP strengthening rules were focused on controlling $PM_{2.5}$ emissions from residential wood combustion, which at that time comprised 74% of direct $PM_{2.5}$ emissions on winter days when 24-hour $PM_{2.5}$ NAAQS exceedances are most likely. The EPA approved the 2008 baseline emissions inventory and SIP strengthening rules on May 29, 2013 (78 FR 32131). On November 3, 2014, Ecology submitted a request to redesignate the Tacoma area from nonattainment to attainment for the 2006 24-hour $PM_{2.5}$ NAAQS. The submittal included a maintenance plan as a SIP revision to ensure continued attainment of the standard over the next 10 years.

The EPA is also taking into account the recent decision in *NRDC* v. *EPA,* in which the D.C. Circuit remanded to EPA the ''Final Clean Air Fine Particle Implementation Rule'' (72 FR 20586, April 25, 2007) and the ''Implementation of the New Source Review (NSR) Program for Particulate Matter Less than 2.5 Micrometers ($PM_{2.5}$)'' final rule (73 FR 28321, May 16, 2008). 706 F.3d 428.

II. The EPA's Requirements

A. Criteria for Redesignation to Attainment

The CAA provides the requirements for redesignating a nonattainment area to attainment. Specifically, section 107(d)(3)(E) of the CAA allows for redesignation providing that: (1) The EPA determines that the area has attained the applicable NAAQS; (2) the EPA has fully approved the applicable implementation plan for the area under section 110(k); (3) the EPA determines that the improvement in air quality is due to permanent and enforceable reductions in emissions resulting from implementation of the applicable SIP and applicable federal air pollutant control regulations and other permanent and enforceable reductions; (4) the EPA has fully approved a maintenance plan for the area as meeting the requirements of section 175A of the CAA; and (5) the state containing such area has met all requirements applicable to the area under section 110 and part D.

The EPA has provided guidance on redesignation in the ''State Implementation Plans; General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990'' (57 FR 13498, April 16, 1992)(the ''General Preamble''), and has provided further guidance on processing redesignation requests in the following documents: (1) ''Procedures for Processing Requests to Redesignate Areas to Attainment,'' Memorandum from John Calcagni, Director, Air Quality Management Division, September 4, 1992 (hereafter the ''1992 Calcagni Memorandum''); (2) ''State Implementation Plan (SIP) Actions Submitted in Response to Clean Air Act (CAA) Deadlines,'' Memorandum from John Calcagni, Director, Air Quality Management Division, October 28, 1992; and (3) ''Part D New Source Review (Part D NSR) Requirements for Areas Requesting Redesignation to Attainment,'' Memorandum from Mary D. Nichols, Assistant Administrator for Air and Radiation, October 14, 1994.

B. Requirements of a Maintenance Plan

Section 175A of the CAA sets forth the elements of a maintenance plan for areas seeking redesignation from nonattainment to attainment. Under section 175A, the plan must demonstrate continued attainment of the applicable NAAQS for at least 10 years after an area is redesignated to attainment. Eight years after the redesignation, the state must submit a revised maintenance plan demonstrating that attainment will continue to be maintained for the 10 years following the initial 10-year period. To address the possibility of future NAAQS violations, the maintenance plan must contain such contingency measures, with a schedule for implementation, as the EPA deems necessary to assure prompt correction of any future $PM_{2.5}$ violations.

The 1992 Calcagni Memorandum provides additional guidance on the content of a maintenance plan. The memorandum states that a maintenance plan should address the following provisions: (1) An attainment emissions inventory; (2) a maintenance demonstration showing maintenance for 10 years; (3) a commitment to maintain the existing monitoring network; (4) verification of continued attainment; and (5) a contingency plan to prevent or correct future violations of the NAAQS.

C. How have tribal governments been involved in this process?

Consistent with the EPA's tribal policy, the EPA offered government-to-government consultation to the Puyallup Tribe of Indians regarding the action in this notice because part of the Puyallup Indian Reservation is located in the Tacoma area. The Puyallup Indian Reservation is divided into tribal trust land and non-trust land. Under the *Puyallup Tribe of Indians Settlement Act of 1989,* 25 U.S.C. 1773, Congress explicitly provided state and local agencies in Washington authority over activities on non-trust lands within the exterior boundaries of the Puyallup Indian Reservation, also known as the 1873 Survey Area. As shown in figure

3 of the EPA's technical support document designating the Tacoma area (then known as the Wapato Hills-Puyallup River Valley Nonattainment Area) to nonattainment, the vast proportion of the Puyallup Indian Reservation within the Tacoma area is under Washington's jurisdiction. The EPA, working in consultation and coordination with the Puyallup Tribe, has CAA authority over the small parcels of tribal trust lands in the Tacoma area. Air quality management on tribal trust lands is addressed pursuant to 40 CFR part 49, which includes the Federal Implementation Plans Under the Clean Air Act for Indian Reservations in Idaho, Oregon and Washington (70 FR 18074, April 8, 2005, the Federal Air Rules for Reservations) and the Review of New Sources and Modifications in Indian Country (76 FR 38748, July 1, 2011).

Under a cooperative agreement between the Puyallup Tribe of Indians and the Puget Sound Clean Air Agency (PSCAA), all emissions inventories, motor vehicle emission budgets, and technical analyses demonstrating current and future attainment included in the State's maintenance plan cover the entire Tacoma area, including both trust and non-trust land. As a member of the PSCAA Advisory Council, the Puyallup Indian Tribe is engaged in all decisions affecting the Tacoma area. As discussed later in this proposal, Ecology and PSCAA chose a conservative estimation methodology for calculating future year emissions budgets, not taking credit for any wood stove curtailment activities on tribal trust land. Therefore, any current or future emission reductions attributable to implementation of the Federal Air Rules for Reservations are supplemental and additional to emission reductions calculated for the area. As shown in Table 7 below, $PM_{2.5}$ levels at the Puyallup tribal monitor are consistently low. For these reasons, and based on discussions with the Puyallup Tribe of Indians, the EPA is proposing to redesignate to attainment all tribal trust land within the Tacoma area.

III. Summary of Proposed Actions

The EPA is proposing to take several rulemaking actions related to the redesignation of the Tacoma area to attainment for the 2006 24-hour $PM_{2.5}$ NAAQS. The EPA is proposing to find that the Tacoma area meets the requirements for redesignation of the 2006 24-hour $PM_{2.5}$ NAAQS under section 107(d)(3)(E) of the CAA. The EPA is thus proposing to change the legal designation of the entire Tacoma area from nonattainment to attainment for the 2006 24-hour $PM_{2.5}$ NAAQS. The EPA is also proposing to approve the associated maintenance plan for the Tacoma area as a revision to the Washington SIP, including motor vehicle emission budgets (MVEBs) for the 24-hour $PM_{2.5}$ NAAQS. The approval of the maintenance plans is one of the CAA criteria for redesignation of the Tacoma area to attainment. Washington's maintenance plan is designed to ensure continued attainment for 10 years after redesignation.

The EPA previously determined that the Tacoma area attained the 2006 24-hour $PM_{2.5}$ NAAQS (77 FR 53772), and the EPA is proposing to find that the area continues to attain the standard. Furthermore, the EPA previously approved under section 172(c)(3) of the CAA, the 2008 comprehensive emissions inventory for the Tacoma area as part of Washington's SIP for the 2006 24-hour $PM_{2.5}$ NAAQS (78 FR 32131, May 29, 2013). The EPA's analysis of the proposed actions is provided in section V of today's proposed rulemaking action.

IV. Effect of the January 4, 2013 D.C. Circuit Decision Regarding $PM_{2.5}$ Implementation Under Subpart 4

A. Background

As discussed above, on January 4, 2013, in *NRDC* v. *EPA,* 706 F.3d 428, the D.C. Circuit remanded to the EPA the ''Final Clean Air Fine Particle Implementation Rule'' (72 FR 20586, April 25, 2007) and the ''Implementation of the New Source Review (NSR) Program for Particulate Matter Less than 2.5 Micrometers ($PM_{2.5}$)'' final rule (73 FR 28321, May 16, 2008) (collectively, ''1997 $PM_{2.5}$ Implementation Rule''). The Court found that the EPA erred in implementing the 1997 $PM_{2.5}$ NAAQS pursuant to the general implementation provisions of subpart 1 of Part D of Title I of the CAA (subpart 1), rather than the particulate-matter-specific provisions of subpart 4 of Part D of Title I (subpart 4).

Prior to the January 4, 2013 decision, states had worked towards meeting the air quality goals of the 2006 $PM_{2.5}$ NAAQS in accordance with the EPA regulations and guidance derived from subpart 1 of Part D of Title I of the CAA. The EPA took this history into account by setting a new deadline for any remaining submissions that may be required of moderate nonattainment areas as a result of the Court's decision regarding the applicability of subpart 4. On June 2, 2014, the EPA issued the $PM_{2.5}$ Subpart 4 Nonattainment Classification and Deadline Rule (79 FR 31566, Jun. 2, 2014) which identifies the classification under subpart 4 for areas currently designated nonattainment for the 1997 and/or 2006 $PM_{2.5}$ standards. The EPA's final rulemaking also sets deadlines for states to submit attainment-related and new source review (NSR) SIP elements required for these areas pursuant to subpart 4, and identifies the EPA guidance that is currently available regarding subpart 4 requirements. The final rule specifies December 31, 2014, as the deadline for the states to submit any additional attainment-related SIP elements that may be needed to meet the applicable requirements of subpart 4 for areas currently designated nonattainment for the 1997 and/or 2006 $PM_{2.5}$ NAAQS and to submit SIPs addressing the nonattainment NSR requirements in subpart 4. Therefore, for Washington, any additional attainment-related SIP-elements that may be needed for the Tacoma area to meet the requirements of subpart 4 were not due at the time that Washington submitted the November 3, 2014 redesignation request.

B. Proposal on This Issue

In this portion of the proposed redesignation, the EPA addresses the effect of the *NRDC* v. *EPA* ruling and the $PM_{2.5}$ Subpart 4 Nonattainment Classification and Deadline Rule on the proposed redesignation. As explained below, the EPA is proposing to determine that the Court's decision does not prevent the EPA from redesignating the Tacoma area to attainment. Even in light of the Court's decision, redesignation for this area is appropriate under the CAA and the EPA's longstanding interpretations of the CAA's provisions regarding redesignation. The EPA first explains its longstanding interpretation that requirements that are imposed, or that become due, after a complete redesignation request is submitted for an area that is attaining the standard, are not applicable for purposes of evaluating a redesignation request. Second, the EPA shows that, even applying the subpart 4 requirements to the Tacoma area redesignation request and disregarding the provisions of the remanded 1997 $PM_{2.5}$ implementation rule, the State's request for redesignation of this area still qualifies for approval. The EPA's discussion also takes into account the effect of the Court's ruling and the $PM_{2.5}$ Subpart 4 Nonattainment Classification and Deadline Rule on the area's maintenance plan, which the EPA views as approvable when subpart 4 requirements are considered.

1. Applicable Requirements for Purposes of Evaluating the Redesignation Request

With respect to the 1997 $PM_{2.5}$ Implementation Rule, the Court's ruling rejected the EPA's reasons for implementing the $PM_{2.5}$ NAAQS solely in accordance with the provisions of subpart 1, and remanded that matter to the EPA, so that it could address implementation of the 1997 $PM_{2.5}$ NAAQS under subpart 4 of Part D of the CAA, in addition to subpart 1. For the purposes of evaluating Washington's redesignation request for the area, to the extent that implementation under subpart 4 would impose additional requirements for areas designated nonattainment, the EPA believes that those requirements are not ''applicable'' for the purposes of CAA section 107(d)(3)(E), and thus the EPA is not required to consider subpart 4 requirements with respect to the Tacoma area redesignation. Under its longstanding interpretation of the CAA, the EPA has interpreted section 107(d)(3)(E) to mean, as a threshold matter, that the part D provisions which are ''applicable'' and which must be approved in order for the EPA to redesignate an area include only those which came due prior to a state's submittal of a complete redesignation request. *See* 1992 Calcagni memorandum. *See also* ''State Implementation Plan (SIP) Requirements for Areas Submitting Requests for Redesignation to Attainment of the Ozone and Carbon Monoxide (CO) National Ambient Air Quality Standards (NAAQS) on or after November 15, 1992,'' Memorandum from Michael Shapiro, Acting Assistant Administrator, Air and Radiation, September 17, 1993 (Shapiro memorandum); Final Redesignation of Detroit-Ann Arbor, (60 FR 12459, 12465–66, March 7, 1995); Final Redesignation of St. Louis, Missouri, (68 FR 25418, 25424–27, May 12, 2003); *Sierra Club* v. *EPA,* 375 F.3d 537, 541 (7th Cir. 2004) (upholding the EPA's redesignation rulemaking applying this interpretation and expressly rejecting that the meaning of ''applicable'' under the statute is ''whatever should have been in the plan at the time of attainment rather than whatever actually was in the plan and already implemented or due at the time of attainment'').[1] In this case, at the time that Washington submitted its redesignation request, requirements under subpart 4 were not due.

The EPA's view that, for purposes of evaluating the Tacoma area redesignation, the subpart 4 requirements were not due at the time Washington submitted the redesignation request is in keeping with the EPA's interpretation of subpart 2 requirements for subpart 1 ozone areas redesignated subsequent to the D.C. Circuit's decision in *South Coast Air Quality Mgmt. Dist.* v. *EPA,* 472 F.3d 882 (D.C. Cir. 2006). In *South Coast,* the Court found that the EPA was not permitted to implement the 1997 8-hour ozone standard solely under subpart 1, and held that the EPA was required under the statute to implement the standard under the ozone-specific requirements of subpart 2 as well. Subsequent to the *South Coast* decision, in evaluating and acting upon redesignation requests for the 1997 8-hour ozone standard that were submitted to the EPA for areas under subpart 1, the EPA applied its longstanding interpretation of the CAA that ''applicable requirements'', for purposes of evaluating a redesignation, are those that had been due at the time the redesignation request was submitted. *See, e.g.,* Proposed Redesignation of Manitowoc County and Door County Nonattainment Areas (75 FR 22047, 22050, April 27, 2010). In those actions, the EPA therefore did not consider subpart 2 requirements to be ''applicable'' for the purposes of evaluating whether the area should be redesignated under section 107(d)(3)(E).

The EPA's interpretation derives from the provisions of CAA Section 107(d)(3). Section 107(d)(3)(E)(v) states that, for an area to be redesignated, a state must meet ''all requirements 'applicable' to the area under section 110 and part D''. Section 107(d)(3)(E)(ii) provides that the EPA must have fully approved the ''applicable'' SIP for the area seeking redesignation. These two sections read together support the EPA's interpretation of ''applicable'' as only those requirements that came due prior to submission of a complete redesignation request. First, holding states to an ongoing obligation to adopt new CAA requirements that arose after a state submitted its redesignation request, in order to be redesignated, would make it problematic or impossible for the EPA to act on redesignation requests in accordance with the 18-month deadline Congress set for the EPA action in section 107(d)(3)(D). If ''applicable requirements'' were interpreted to be a continuing flow of requirements with no reasonable limitation, states, after submitting a redesignation request, would be forced continuously to make additional SIP submissions that in turn would require the EPA to undertake further notice-and-comment rulemaking actions to act on those submissions. This would create a regime of unceasing rulemaking that would delay action on the redesignation request beyond the 18-month timeframe provided by the Act for this purpose.

Second, a fundamental premise for redesignating a nonattainment area to attainment is that the area has attained the relevant NAAQS due to emission reductions from existing controls. Thus, an area for which a redesignation request has been submitted would have already attained the NAAQS as a result of satisfying statutory requirements that came due prior to the submission of the request. Absent a showing that unadopted and unimplemented requirements are necessary for future maintenance, it is reasonable to view the requirements applicable for purposes of evaluating the redesignation request as including only those SIP requirements that have already come due. These are the requirements that led to attainment of the NAAQS. To require, for redesignation approval, that a state also satisfy additional SIP requirements coming due after the state submits its complete redesignation request, and while EPA is reviewing it, would compel the state to do more than is necessary to attain the NAAQS, without a showing that the additional requirements are necessary for maintenance.

In the context of this redesignation, the timing and nature of the Court's January 4, 2013 decision in *NRDC* v. *EPA* and the EPA's June 2, 2014 $PM_{2.5}$ Subpart 4 Nonattainment Classification and Deadline Rule compound the consequences of imposing requirements that come due after the redesignation request is submitted. Washington submitted its redesignation request on November 3, 2014, which is prior to the deadline by which the Tacoma area is required to meet the attainment plan and other requirements pursuant to subpart 4.

To evaluate Washington's fully-completed and pending redesignation request to comply now with requirements of subpart 4 for which the deadline to comply has not yet come, would be to give retroactive effect to such requirements and contravene the EPA's longstanding interpretation of applicable requirements for purposes of redesignation. The D.C. Circuit recognized the inequity of this type of retroactive impact in *Sierra Club* v.

[1] Applicable requirements of the CAA that come due subsequent to the area's submittal of a complete redesignation request remain applicable until a redesignation is approved, but are not required as a prerequisite to redesignation. Section 175A(c) of the CAA.

Whitman, 285 F.3d 63 (D.C. Cir. 2002),[2] where it upheld the District Court's ruling refusing to make retroactive the EPA's determination that the St. Louis area did not meet its attainment deadline. In that case, petitioners urged the Court to make the EPA's nonattainment determination effective as of the date that the statute required, rather than the later date on which the EPA actually made the determination. The Court rejected this view, stating that applying it ''would likely impose large costs on States, which would face fines and suits for not implementing air pollution prevention plans . . . even though they were not on notice at the time.'' *Id.* at 68. Similarly, it would be unreasonable to penalize the State of Washington by rejecting its redesignation request for an area that is already attaining the 2006 $PM_{2.5}$ standard and that met all applicable requirements known to be in effect at the time of the request. For the EPA now to reject the redesignation request solely because the State did not expressly address subpart 4 requirements which have not yet come due would inflict the same unfairness condemned by the Court in *Sierra Club* v. *Whitman*.

2. Subpart 4 Requirements and Washington's Redesignation Request

Even if the EPA interpreted the *NRDC* decision to mean that subpart 4 requirements were due and in effect when Washington submitted its redesignation request, the EPA proposes to determine that the Tacoma area still qualifies for redesignation to attainment. As explained below, the EPA believes that the redesignation request for the Tacoma area, though not expressed in terms of subpart 4 requirements, substantively meets the requirements of that subpart for purposes of redesignating the area to attainment.

With respect to evaluating the relevant substantive requirements of subpart 4 for purposes of redesignating the Tacoma area, the EPA notes that the section 172(c) general air quality planning requirements for areas designated as nonattainment are also applicable. Subpart 4 contains specific planning and scheduling requirements for PM_{10} [3] nonattainment areas, and consistent with the decision in *NRDC* v. *EPA,* these same statutory requirements also apply to $PM_{2.5}$ nonattainment areas. As noted, the General Preamble sets forth the EPA's longstanding general guidance that interprets the 1990 amendments to the CAA, and provides recommendations to states for meeting the statutory requirements for SIPs for nonattainment areas (57 FR 13498, April 16, 1992). In the General Preamble, the EPA discussed the relationship of subpart 1 and subpart 4 SIP requirements, and pointed out that subpart 1 requirements were to an extent ''subsumed by, or integrally related to, the more specific PM–10 requirements'' (57 FR 13538). The subpart 1 requirements include, among other things, provisions for attainment demonstrations, reasonably available control measures (RACM), reasonable further progress (RFP), emissions inventories, and contingency measures.

For the purposes of this redesignation, in order to identify any additional requirements which would apply under subpart 4, consistent with the EPA's $PM_{2.5}$ Subpart 4 Nonattainment Classification and Deadline Rule, we classified the Tacoma area as a ''moderate'' $PM_{2.5}$ nonattainment area. As the EPA explained in its June 2, 2014 final rule, section 188 of the CAA provides that all designated nonattainment areas under subpart 4 are initially classified by operation of law as ''moderate'' nonattainment areas, and remain moderate nonattainment areas unless and until the EPA reclassifies the area as a ''serious'' nonattainment area (79 FR 31567). Accordingly, the EPA believes that it is appropriate to limit the evaluation of the potential impact of subpart 4 requirements to those that would be applicable to moderate nonattainment areas. Sections 189(a) and (c) of subpart 4 apply to moderate nonattainment areas and include the following requirements: (1) An approved permit program for construction of new and modified major stationary sources (section 189(a)(1)(A)); (2) an attainment demonstration (section 189(a)(1)(B)); (3) provisions for RACM (section 189(a)(1)(C)); and (4) quantitative milestones demonstrating RFP toward attainment by the applicable attainment date (section 189(c)).

The permit requirements of subpart 4, as contained in section 189(a)(1)(A), refer to and apply the subpart 1 permit provisions requirements of sections 172 and 173 to PM_{10}, without adding to them. Consequently, the EPA believes that section 189(a)(1)(A) does not itself impose for redesignation purposes any additional requirements for moderate areas beyond those contained in subpart 1.[4] In any event, in the context of redesignation, the EPA has long relied on the interpretation that a fully approved nonattainment new source review program is not considered an applicable requirement for redesignation, provided the area can maintain the standard with a prevention of significant deterioration (PSD) program after redesignation. A detailed rationale for this view is described in a memorandum from Mary Nichols, Assistant Administrator for Air and Radiation, dated October 14, 1994, entitled, ''Part D New Source Review Requirements for Areas Requesting Redesignation to Attainment.'' *See also* rulemakings for Detroit, Michigan (60 FR 12467–12468, March 7, 1995); Cleveland-Akron-Lorain, Ohio (61 FR 20458, 20469–20470, May 7, 1996); Louisville, Kentucky (66 FR 53665, October 23, 2001); and Grand Rapids, Michigan (61 FR 31834–31837, June 21, 1996).

With respect to the specific attainment planning requirements under subpart 4,[5] when the EPA evaluates a redesignation request under either subpart 1 and/or 4, any area that is attaining the $PM_{2.5}$ standard is viewed as having satisfied the attainment planning requirements for these subparts. For redesignations, the EPA has for many years interpreted attainment-linked requirements as not applicable for areas attaining the standard. In the General Preamble, the EPA stated that the requirements for RFP will not apply in evaluating a request for redesignation to attainment since, at a minimum, the air quality data for the area must show that the area has already attained. Showing that the State will make RFP towards attainment will, therefore, have no meaning at that point (57 FR 13564). The General Preamble also explained in discussing contingency measures that the section 172(c)(9) requirements are directed at ensuring RFP and attainment by the applicable date. These requirements no longer apply when an area has attained the standard and is eligible for redesignation. Furthermore, section 175A for maintenance plans provides specific requirements for contingency measures that effectively supersede the requirements of section 172(c)(9) for these areas.

The EPA similarly stated in its 1992 Calcagni memorandum that, ''The requirements for reasonable further

[2] *Sierra Club* v. *Whitman* was discussed and distinguished in a recent D.C. Circuit decision that addressed retroactivity in a quite different context, where, unlike the situation here, EPA sought to give its regulations retroactive effect. *National Petrochemical and Refiners Ass'n* v. *EPA.* 630 F.3d 145, 163 (D.C. Cir. 2010), rehearing denied 643 F.3d 958 (D.C. Cir. 2011), cert denied 132 S. Ct. 571 (2011).

[3] PM_{10} refers to particulates nominally 10 micrometers in diameter or smaller.

[4] The potential effect of section 189(e) on section 189(a)(1)(A) for purposes of evaluating this redesignation is discussed below.

[5] I.e., attainment demonstration, RFP, RACM, milestone requirements, contingency measures.

progress and other measures needed for attainment will not apply for redesignations because they only have meaning for areas not attaining the standard.''

It is evident that even if we were to consider the decision in *NRDC* v. *EPA* to mean that attainment-related requirements specific to subpart 4 should be imposed retroactively [6] or prior to December 31, 2014 and, thus, were due prior to Washington's redesignation request, those requirements do not apply to an area that is attaining the 2006 $PM_{2.5}$ standard for the purpose of evaluating a pending request to redesignate the area to attainment. The EPA has consistently enunciated this interpretation of applicable requirements under section 107(d)(3)(E) since the General Preamble was published more than twenty years ago. Courts have recognized the scope of the EPA's authority to interpret ''applicable requirements'' in the redesignation context. *See Sierra Club* v. *EPA*, 375 F.3d 537 (7th Cir. 2004).

Moreover, even outside the context of redesignations, the EPA has viewed the obligations to submit the attainment-related SIP planning requirements of subpart 4 as inapplicable for areas that the EPA determines are attaining the standard. The EPA's prior ''Clean Data Policy'' rulemakings for the PM_{10} NAAQS, also governed by the requirements of subpart 4, explain the EPA's reasoning. They describe the effects of a determination of attainment on the attainment-related SIP planning requirements of subpart 4. *See* ''Determination of Attainment for Coso Junction Nonattainment Area,'' (75 FR 27944, May 19, 2010). *See also* Coso Junction proposed PM_{10} redesignation, (75 FR 36023, 36027, June 24, 2010); Proposed and Final Determinations of Attainment for San Joaquin Nonattainment Area (71 FR 40952, 40954–55, July 19, 2006; and 71 FR 63641, 63643–47 October 30, 2006). In short, the EPA has also long concluded that to require states to meet superfluous SIP planning requirements is not necessary and not required by the CAA, so long as those areas continue to attain the relevant NAAQS.

In this notice the EPA proposes to determine that the area has attained the 2006 24-hour $PM_{2.5}$ standard. Under its longstanding interpretation, the EPA is also proposing to determine that the area meets the attainment-related plan requirements of subparts 1 and 4. Thus, the EPA is proposing to conclude that the requirements to submit an attainment demonstration under 189(a)(1)(B), a RACM determination under section 172(c)(1) and section 189(a)(1)(c), a RFP demonstration under 189(c)(1), and contingency measure requirements under section 172(c)(9) are satisfied for purposes of evaluating the redesignation request.

3. Maintenance Plan and Evaluation of Precursors

With regard to the redesignation of the Tacoma area, in evaluating the effect of the Court's remand of the EPA's implementation rule, which included presumptions against consideration of VOC and ammonia as $PM_{2.5}$ precursors, the EPA in this proposal is also considering the impact of the decision on the maintenance plan required under sections 175A and 107(d)(3)(E)(iv). To begin with, the EPA notes that the area has attained the 2006 $PM_{2.5}$ standard and that the State has shown that attainment of that standard is due to permanent and enforceable emission reductions.

The EPA proposes to determine that Washington's maintenance plan, in addition to direct $PM_{2.5}$ controls, shows continued maintenance of the standard by tracking the levels of the $PM_{2.5}$ precursors. The EPA believes that the only additional consideration related to the maintenance plan requirements that results from the *NRDC* decision is that of assessing the potential role of VOC and ammonia in demonstrating continued maintenance in this area. As explained below, based upon documentation provided by the State and supporting information, the EPA believes that the maintenance plan for the Tacoma area need not include any additional control measures for VOC or ammonia in order to provide for continued maintenance of the standard.

First, VOC emission levels in this area have historically been well-controlled under SIP requirements related to the former Seattle-Tacoma Puget Sound ozone nonattainment area. These requirements remain in place today and the area remain in attainment with more stringent ozone standards promulgated by the EPA in 1997 and 2008. Second, total ammonia emissions throughout the Tacoma area are very low, estimated to be 374 tons per year in 2011. *See* Table 6 below. This amount of ammonia emissions appears especially small in comparison to the total amounts of SO_2, NO_X, and direct $PM_{2.5}$ emissions from sources in the area. Third, as described below, VOC and ammonia emissions are expected to decline over the maintenance period, due primarily to fleet turnover with cleaner vehicles, and will therefore not interfere with or undermine the maintenance demonstration.

Washington's maintenance plan shows that emissions of direct $PM_{2.5}$, and NO_X are projected to decrease over the maintenance period by 100 tons per year (tpy) and 8,105 tpy, respectively, while SO_2 emissions are estimated to increase slightly by 5 tpy. See Tables 1–4 below. Note that Ecology chose to use conservative 10-year maximum values for estimating future (2017, 2026) point source emissions but used actual emissions for the 2011 base year, so the estimated 5 tpy increase in SO_2 emissions is likely a conservative overestimate and is not expected to impact maintenance of the standard. In addition, emissions inventories show that VOC and ammonia emissions are projected to decrease by 1,754 tpy and 49 tpy, respectively between 2011 and 2026. *See* Tables 5 and 6 below. Given that the Tacoma area is already attaining the 2006 $PM_{2.5}$ NAAQS even with the current level of emissions from sources in the area, the downward trend of emissions inventories would be consistent with continued attainment. Indeed, projected emissions reductions indicate that the area should continue to attain the NAAQS following the control strategies that Washington has already elected to pursue. For these reasons, the EPA believes that local emissions of all direct $PM_{2.5}$ and $PM_{2.5}$ precursors will not increase to the extent that they will cause monitored $PM_{2.5}$ levels to violate the 2006 $PM_{2.5}$ standard during the maintenance period.

[6] As EPA has explained above, we do not believe that the Court's January 4, 2013 decision should be interpreted so as to impose these requirements on the states retroactively. *Sierra Club* v. *Whitman, supra.*

TABLE 1—COMPARISON OF 2011, 2017, AND 2026 DIRECT $PM_{2.5}$ EMISSION TOTALS BY SOURCE SECTOR (TPY) FOR THE TACOMA AREA

Sector	Annual direct $PM_{2.5}$ (tpy)			
	2011	2017	2026	Net change
Point	240	364	347	107
Residential Wood Combustion	1,182	1,174	1,193	11
Other Nonpoint Sources (including dust)	528	556	649	121
On-road	359	229	150	−209
Nonroad	276	193	143	−133
Total	2,585	2,518	2,485	−100

TABLE 2—COMPARISON OF 2011, 2017, AND 2026 DIRECT $PM_{2.5}$ EMISSION TOTALS BY SOURCE SECTOR FOR THE TACOMA AREA IN POUNDS PER WINTER WEEKDAY

[Seasonal inventory most relevant to elevated particulate matter levels]

Sector	Winter weekday direct $PM_{2.5}$ (lbs/day)			
	2011	2017	2026	Net change
Point	1,313	1,995	1,903	590
Residential Wood Combustion	25,520	25,355	25,787	267
Other Nonpoint Sources (including dust)	3,048	3,149	3,842	794
On-road	2,497	1,642	1,149	−1,348
Nonroad	1,384	956	697	−687
Total	33,761	33,099	33,379	−382

TABLE 3—COMPARISON OF 2011, 2017, AND 2026 SO_2 EMISSION TOTALS BY SOURCE SECTOR (TPY) FOR THE TACOMA AREA

Sector	Annual SO_2 (tpy)			
	2011	2017	2026	Net change
Point	360	720	720	360
Residential Wood Combustion	19	20	22	3
Other Nonpoint Sources (including dust)	56	60	66	10
On-road	44	40	37	−7
Nonroad	754	301	392	−362
Total	1,234	1,143	1,239	5

TABLE 4—COMPARISON OF 2011, 2017, AND 2026 NO_X EMISSION TOTALS BY SOURCE SECTOR (TPY) FOR THE TACOMA AREA

Sector	Annual NO_X (tpy)			
	2011	2017	2026	Net change
Point	1,180	1,399	1,396	216
Residential Wood Combustion	132	135	141	9
Other Nonpoint Sources (including dust)	311	335	368	57
On-road	10,697	6,377	3,458	−7,239
Nonroad	3,511	2,794	2,363	−1,148
Total	15,833	11,041	7,728	−8,105

TABLE 5—COMPARISON OF 2011, 2017, AND 2026 VOC EMISSION TOTALS BY SOURCE SECTOR (TPY) FOR THE TACOMA AREA

Sector	Annual VOC (tpy)			
	2011	2017	2026	Net change
Point	454	1,315	1,409	955
Residential Wood Combustion	1,521	1,468	1,442	−79
Other Nonpoint Sources (including dust)	4,218	4,448	4,964	746
On-road	5,058	3,114	1,938	−3,120
Nonroad	1,462	1,157	1,206	−256
Total	12,711	11,502	10,957	−1,754

TABLE 6—COMPARISON OF 2011, 2017, AND 2026 AMMONIA EMISSION TOTALS BY SOURCE SECTOR (TPY) FOR THE TACOMA AREA

Sector	Annual ammonia (tpy)			
	2011	2017	2026	Net change
Point	48	48	48	0
Residential Wood Combustion	70	69	72	2
Other Nonpoint Sources (including dust)	71	75	82	11
On-road	184	142	123	−61
Nonroad	0	0	0	0
Total	374	336	325	−49

The EPA believes that there is ample justification to conclude that the Tacoma area should be redesignated, taking into consideration projections of future direct $PM_{2.5}$ and $PM_{2.5}$ precursor emissions. After consideration of the DC Circuit's *NRDC* decision, and for the reasons set forth in this notice, the EPA proposes to approve Washington's maintenance plan and its request to redesignate the Tacoma area to attainment for the 2006 24-hour $PM_{2.5}$ standard.

V. The EPA's Analysis of Washington's Submittal

The EPA is proposing to redesignate the Tacoma area to attainment for the 2006 24-hour $PM_{2.5}$ NAAQS and to approve into the Washington SIP the associated maintenance plan. The EPA's proposed approval of the redesignation request and maintenance plan is based upon the EPA's determination that the area continues to attain the 2006 24-hour $PM_{2.5}$ NAAQS and that all other redesignation criteria have been met for the area. The following is a description of how Washington's November 3, 2014 submittal satisfies the requirements of section 107(d)(3)(E) of the CAA for the 2006 24-hour $PM_{2.5}$ standard.

A. Redesignation Request

1. Attainment

On September 4, 2012, the EPA published a final rulemaking that the Tacoma area attained the 2006 $PM_{2.5}$ NAAQS based upon quality-assured and certified ambient air quality monitoring data for the period of 2009–2011 (77 FR 53772). On September 19, 2013, the EPA published another final rulemaking, in order to approve motor vehicle emission budgets, with the determination that the area continued to attain the standard based upon quality-assured and certified ambient air quality monitoring data for the period of 2010–2012 (78 FR 57503). The basis and effect of these determinations of attainment for the 2006 $PM_{2.5}$ NAAQS were discussed in the notices of the proposed (77 FR 39657 and 78 FR 42905) and final (77 FR 53772 and 78 FR 57503) rulemakings.

The EPA has reviewed the ambient air quality $PM_{2.5}$ monitoring data in the Tacoma area, consistent with the requirements at 40 CFR part 50, and recorded in the EPA's Air Quality System (AQS), quality assured, quality-controlled, and state certified data for the monitoring periods 2011–2013 and preliminary data for 2014. The air quality data show that the Tacoma area continues to attain the 2006 24-hour $PM_{2.5}$ NAAQS. The area's 24-hour $PM_{2.5}$ design values[7] are provided in Table 7.

TABLE 7—TACOMA AREA DESIGN VALUES[8]

Monitor	2007–2009	2008–2010	2009–2011	2010–2012	2011–2013
Tacoma—South L Street	46	38	35	28	32
Tacoma Tideflats–Alexander Avenue	27	22	22	21	24
Puyallup—128th Street (South Hill)	27	22	22	21	23
Puyallup—66th Avenue (Puyallup Tribe)	NA	21	21	21	23

[7] As defined in 40 CFR part 50, Appendix N, section (1)(c).

[8] The Tacoma—South L Street monitor, the original violating monitor for designation as nonattainment, is the only Federal Reference Method (FRM) monitor. Other state or tribal nonregulatory monitoring information for the Tacoma area is provided for informational purposes only.

The EPA's review of the monitoring data for 2011–2013 supports the previous determinations that the area has attained the 2006 24-hour $PM_{2.5}$ NAAQS, and that the area continues to attain the standard. Preliminary 2014 data, as shown in Figure 9 of Washington's submittal, is also consistent with attainment. With respect to the maintenance plan, Washington has committed to continue monitoring ambient $PM_{2.5}$ concentrations in accordance with 40 CFR part 58. Thus, the EPA is proposing to determine that the Tacoma area continues to attain the 2006 24-hour $PM_{2.5}$ NAAQS.

2. The Area Has Met All Applicable Requirements Under Section 110 and Subpart 1 of the CAA and Has a Fully Approved SIP Under Section 110(k)

In accordance with section 107(d)(3)(E)(v), the SIP revision for the 2006 24-hour $PM_{2.5}$ NAAQS for the Tacoma area must be fully approved under section 110(k) and all the requirements applicable to the area under section 110 of the CAA (general SIP requirements) and part D of Title I of the CAA (SIP requirements for nonattainment areas) must be met.

a. Section 110 General SIP Requirements

Section 110(a)(2) of Title I of the CAA delineates the general requirements for a SIP, which include enforceable emissions limitations and other control measures, means, or techniques, provisions for the establishment and operation of appropriate devices necessary to collect data on ambient air quality, and programs to enforce the limitations. The general SIP elements and requirements set forth in section 110(a)(2) include, but are not limited to the following:

- Submittal of a SIP that has been adopted by the state after reasonable public notice and hearing;
- Provisions for establishment and operation of appropriate procedures needed to monitor ambient air quality;
- Implementation of a source permit program; provisions for the implementation of Part C requirements (Prevention of Significant Deterioration);
- Provisions for the implementation of Part D requirements for New Source Review permit programs;
- Provisions for air pollution modeling; and
- Provisions for public and local agency participation in planning and emission control rule development.

Section 110(a)(2)(D) of the CAA requires that SIPs contain certain measures to prevent sources in a state from significantly contributing to air quality problems in another state. However, section 110(a)(2)(D) requirements for a state are not linked with a particular nonattainment area's designation and classification in that state. The EPA believes that the requirements linked with a particular nonattainment area's designation and classifications are the relevant measures to evaluate in reviewing a redesignation request. The transport SIP submittal requirements, where applicable, continue to apply to a state regardless of the designation of any one particular area in the state. Thus, the EPA does not believe that these requirements are applicable requirements for purposes of redesignation.

In addition, the EPA believes that the other section 110(a)(2) elements not connected with nonattainment plan submissions and not linked with an area's attainment status are not applicable requirements for purposes of redesignation. The Tacoma area will still be subject to these requirements after it is redesignated. The EPA concludes that the section 110(a)(2) and part D requirements which are linked with a particular area's designation and classification are the relevant measures to evaluate in reviewing a redesignation request, and that section 110(a)(2) elements not linked to the area's nonattainment status are not applicable for purposes of redesignation. This approach is consistent with the EPA's existing policy on applicability of conformity (*i.e.,* for redesignations) and oxygenated fuels requirement. *See* Reading, Pennsylvania, proposed and final rulemakings (61 FR 53174, October 10, 1996), (62 FR 24826, May 7, 1997); Cleveland-Akron-Lorain, Ohio final rulemaking (61 FR 20458, May 7, 1996); and Tampa, Florida, final rulemaking (60 FR 62748, December 7, 1995). *See also,* the discussion on this issue in the Cincinnati, Ohio redesignation (65 FR at 37890, June 19, 2000), and in the Pittsburgh-Beaver Valley, Pennsylvania redesignation (66 FR at 53099, October 19, 2001).

The EPA has reviewed the Washington SIP and has concluded that it meets the general SIP requirements under section 110(a)(2) of the CAA to the extent they are applicable for purposes of redesignation. The EPA has previously approved provisions of Washington's SIP addressing section 110(a)(2) requirements (77 FR 30902, May 24, 2012 and 79 FR 42683, July 23, 2014), including proposed approval of provisions addressing $PM_{2.5}$ (79 FR 62368, October 17, 2014). These requirements are, however, statewide requirements that are not linked to the $PM_{2.5}$ nonattainment status of the Tacoma area. Therefore, the EPA believes that these SIP elements are not applicable requirements for purposes of review of the State's $PM_{2.5}$ redesignation request.

b. Title I, Part D, Subpart 1 Applicable SIP Requirements

Subpart 1 of part D of Title I of the CAA sets forth the basic nonattainment requirements applicable to all nonattainment areas. All areas that were designated nonattainment for the 1997 and 2006 $PM_{2.5}$ NAAQS were designated under this subpart of the CAA, and the requirements applicable to them are contained in sections 172 and 176. The EPA's analysis of the particulate-matter-specific provisions of Subpart 4 of part D of Title I is discussed earlier in this notice.

The General Preamble for Implementation of Title I discusses the evaluation of these requirements in the context of the EPA's consideration of a redesignation request. The General Preamble sets forth the EPA's view of applicable requirements for purposes of evaluating redesignation requests when an area is attaining the standard (*See* 57 FR 13498).

As mentioned previously, on September 4, 2012, the EPA made a determination that the Tacoma area had attained the 2006 24-hour $PM_{2.5}$ NAAQS (77 FR 53772). This determination of attainment was based upon quality assured and certified ambient air quality monitoring data for the period of 2009–2011 showing that the area had attained the standard. In a separate rulemaking action, dated September 19, 2013, the EPA made another determination of attainment for the Tacoma area for the 2006 24-hour $PM_{2.5}$ NAAQS for the 2010–2012 monitoring period, in order to approve motor vehicle emission budgets (78 FR 57503).

As previously explained, upon determination by the EPA that the area had attained the 2006 24-hour $PM_{2.5}$ NAAQS, the requirement for Washington to submit an attainment demonstration and associated RACM, a RFP plan, contingency measures, and other planning requirements related to the attainment of the 2006 24-hour $PM_{2.5}$ NAAQS were suspended until the area is redesignated to attainment for the standard or the EPA determines that the area has again violated the standard, at which time such suspended planning requirements are required to be submitted. Thus, because attainment has been reached for the area for the 2006 24-hour $PM_{2.5}$ NAAQS and the area continues to attain the standard, no additional measures are needed to

provide for attainment. Therefore, the requirements of section 172(c)(1), 172(c)(2), 172(c)(6), and 172(c)(9) are no longer considered to be applicable for purposes of redesignation of the area.

However, determinations of attainment do not relieve states from submitting and the EPA from approving certain planning requirements for the 2006 $PM_{2.5}$ NAAQS. On November 28, 2012, Washington submitted a 2008 baseline emissions inventory for direct $PM_{2.5}$ and precursors to the formation of $PM_{2.5}$ including NO_X, SO_2,VOCs, and ammonia to meet the comprehensive emissions inventory requirement of CAA section 172(c)(3) for the 2006 24-hour $PM_{2.5}$ NAAQS. Also included in Washington's submittal were SIP strengthening rules to implement the recommendations of the Tacoma-Pierce County Clean Air Task Force, an advisory committee of community leaders, citizen representatives, public health advocates, and other affected parties, formed to develop $PM_{2.5}$ reduction strategies. These SIP strengthening rules were permanent and enforceable measures focused on controlling $PM_{2.5}$ emissions from residential wood combustion, which in 2008 comprised 74% of direct $PM_{2.5}$ emissions on winter days when 24-hour $PM_{2.5}$ NAAQS exceedances are most likely. The EPA approved the 2008 baseline emissions inventory and SIP strengthening rules on May 29, 2013 (78 FR 32131).

Section 172(c)(4) of the CAA requires the identification and quantification of allowable emissions for major new and modified stationary sources in an area, and section 172(c)(5) requires source permits for the construction and operation of new and modified major stationary sources anywhere in the nonattainment area. The EPA has determined that, since PSD requirements will apply after redesignation [9], areas being redesignated need not comply with the requirement that a nonattainment NSR program be approved prior to redesignation, provided that the area demonstrates maintenance of the NAAQS without part D New Source Review (NSR). A more detailed rationale for this view is described in a memorandum from Mary Nichols, Assistant Administrator for Air and Radiation, dated October 14, 1994, entitled, ''Part D New Source Review Requirements for Areas Requesting Redesignation to Attainment.''

Section 172(c)(7) of the CAA requires the SIP to meet the applicable provisions of section 110(a)(2). As noted previously, we believe the Washington SIP meets the requirements of section 110(a)(2) that are applicable for purposes of redesignation.

As a result of the EPA's determination of attainment of the area for the 2006 24-hour $PM_{2.5}$ NAAQS the only remaining requirement under section 172 to be considered for the $PM_{2.5}$ standard is the comprehensive emissions inventory required under section 172(c)(3). Section 172(c)(3) of the CAA requires submission of a comprehensive, accurate, and current inventory of actual emissions. For purposes of the $PM_{2.5}$ NAAQS, this emissions inventory should address not only direct emissions of $PM_{2.5}$, but also emissions of all precursors with the potential to participate in $PM_{2.5}$ formation, *i.e.,* SO_2, NO_X, VOC, and ammonia. As previously discussed, the EPA determined that Washington met the section 172(c)(3) comprehensive emissions inventory requirement in a final rulemaking on May 29, 2013 (78 FR 32131).

Section 175A requires a state seeking redesignation to attainment to submit a SIP revision to provide for the maintenance of the NAAQS in the area ''for at least 10 years after the redesignation.'' In conjunction with its request to redesignate the Tacoma area to attainment status, Washington submitted a SIP revision to provide for maintenance of the 2006 24-hour $PM_{2.5}$ NAAQS for at least 10 years after redesignation, through 2026. Washington is requesting that the EPA approve this SIP revision as meeting the requirement of CAA section 175A. Once approved, the maintenance plan for the Tacoma area will ensure that the SIP for Washington meets the requirements of the CAA regarding maintenance of the 2006 24-hour $PM_{2.5}$ NAAQS. The EPA's analysis of the maintenance plan is provided in section V.B. of this rulemaking action.

Section 176(c) of the CAA requires states to establish criteria and procedures to ensure that federally supported or funded projects conform to the air quality planning goals in the applicable SIP. The requirement to determine conformity applies to transportation plans, programs, and projects that are developed, funded or approved under title 23 of the United States Code (U.S.C.) and the Federal Transit Act (transportation conformity) as well as to all other federally supported or funded projects (general conformity). State transportation conformity SIP revisions must be consistent with federal conformity regulations relating to consultation, enforcement and enforceability which the EPA promulgated pursuant to its authority under the CAA. The EPA interprets the conformity SIP requirements as not applying for purposes of evaluating a redesignation request under CAA section 107(d) because state conformity rules are still required after redesignation, and federal conformity rules apply where state rules have not been approved. See *Wall* v. *EPA,* 265 F. 3d 426 (6th Cir. 2001) (upholding this interpretation) and Tampa, Florida discussion (60 FR 62748, December 7, 1995).

Thus, for purposes of redesignating the Tacoma area to attainment of the 2006 24-hour $PM_{2.5}$ NAAQS, the EPA is proposing to determine that Washington has met all the applicable SIP requirements under part D of Title I of the CAA.

c. The Tacoma Area Has a Fully Approved Applicable SIP Under Section 110(k) of the CAA

For purposes of redesignation to attainment for the 2006 24-hour $PM_{2.5}$ NAAQS, the EPA has fully approved all applicable requirements of Washington's SIP for the Tacoma area in accordance with section 110(k) of the CAA.

3. Permanent and Enforceable Reductions in Emissions

In many parts of the nation, $PM_{2.5}$ nonattainment is often a result of secondary formation of precursors into particulate matter from point or mobile sources. As shown in Tables 3 through 6, most of these precursor emissions are projected to decline significantly due to federal engine and fuel requirements for cars, trucks, ships, trains, and nonroad equipment. These estimated precursor reductions will aid in continued attainment of the 24-hour $PM_{2.5}$ NAAQS. However, the Tacoma area, like some other areas in the Pacific Northwest, is somewhat unique for a large urban area in that elevated 24-hour particulate matter levels are heavily dominated by direct $PM_{2.5}$ emissions from local residential wood combustion. As shown previously in Table 2, residential wood combustion currently accounts for 76% of direct $PM_{2.5}$ emissions on a typical winter day, the season most relevant to $PM_{2.5}$ exceedances. Other sources of direct $PM_{2.5}$ are much smaller, including 7% for onroad vehicles, 6% for dust, 4% for major point sources, and 4% for nonroad vehicles and engines. As discussed in Washington's SIP submission, elevated $PM_{2.5}$ levels are particularly acute during wintertime meteorological inversion events when a shallow pool of cold air is trapped at

[9] The PSD program in Washington, including tribal land, is regulated under a Federal Implementation Plan.

ground level, allowing little to no mixing with the upper atmosphere. On these days, monitored 24-hour $PM_{2.5}$ concentrations increase as do emissions from residential wood combustion.

In response to these episodic inversion events, Washington established a mandatory wood stove (solid fuel burning device) curtailment program dating back to the late 1980s and early 1990s to address coarse particulate matter (PM_{10}) nonattainment. The curtailment program rapidly brought most wood smoke dominated PM_{10} areas, including Tacoma, into attainment by the mid-1990s (see 60 FR 54599, October 25, 1995). The curtailment program was so successful that Washington had no $PM_{2.5}$ nonattainment areas when the EPA established the 24-hour $PM_{2.5}$ NAAQS of 65 μg/m³ in 1997. It was not until 2006, when the EPA tightened the 24-hour $PM_{2.5}$ NAAQS to 35 μg/m³ that Washington again experienced wood smoke dominated nonattainment problems. In response, Washington enacted a series of statutory and regulatory changes in 2007, 2008, and 2012 to update the curtailment program. The EPA most recently approved the updates to the curtailment program enforced by the local Puget Sound Clean Air Agency (PSCAA) on May 29, 2013 (78 FR 32131) and to the statewide Ecology curtailment regulations on May 9, 2014 (79 FR 26628).[10]

For an area at risk of nonattainment like Tacoma, when forecasted meteorological conditions are predicted to cause $PM_{2.5}$ levels to reach or exceed 30 μg/m³, measured on a twenty-four hour average, PSCAA or Ecology can declare a first stage of impaired air quality. Use of an uncertified solid fuel burning device is prohibited during a first stage of impaired air quality, with limited exceptions.[11] PSCAA or Ecology can declare a second stage of impaired air quality when: (1.) A first stage of impaired air quality has been in force and has not been sufficient to reduce the increasing $PM_{2.5}$ trend; (2.) $PM_{2.5}$ levels are monitored at an ambient level of 25 μg/m³ measured on a twenty-four hour average; and (3.) forecasted meteorological conditions are not expected to allow $PM_{2.5}$ levels to decline below 25 μg/m³ for a period of 24 hours or more. PSCAA or Ecology can also proceed directly to a second stage of impaired air quality without first calling a first stage if conditions are particularly severe. *See* Revised Code of Washington 70.94.473. Use of any solid fuel burning device, certified or uncertified, is prohibited during the second stage of impaired air quality, with limited exceptions.

Despite challenging meteorological conditions in both 2011 and 2013, as discussed in the weight of evidence analysis contained in Washington's redesignation request, the Tacoma area continues to remain in attainment. Data analyses conducted by Washington that adjusts for year-to-year meteorological variation shows that $PM_{2.5}$ levels on the highest winter days have come down over 10 μg/m³ since 2009. Based on our review of Washington's weight of evidence analysis, the EPA is proposing to determine that the improvement in air quality is due to permanent and enforceable reductions in emissions resulting from Washington's curtailment program and other permanent and enforceable reductions, such as federal air pollutant control regulations.

B. Maintenance Plan

On November 3, 2014, Ecology submitted a maintenance plan for the 2006 24-hour $PM_{2.5}$ NAAQS, as required by section 175A of the CAA. The maintenance plan includes all emissions inventories, motor vehicle emission budgets, and technical analyses demonstrating current and future attainment for the entire Tacoma area, including tribal trust and non-trust lands. The EPA's analysis for proposing approval of the maintenance plan is provided in this section.

1. Attainment Emissions Inventory

An attainment inventory is comprised of the emissions during the time period associated with the monitoring data showing attainment. Ecology determined that the appropriate attainment inventory year for the maintenance plan is 2011, one of the years in the period during which the Tacoma area monitored attainment of the 2006 24-hour $PM_{2.5}$ NAAQS. The 2011 inventory included in the maintenance plan contains primary $PM_{2.5}$ emissions (including condensables), SO_2, NO_X, VOCs, and ammonia. In its redesignation request and maintenance plan for the 2006 24-hour $PM_{2.5}$ standard, Ecology described the methods used for developing the inventory. The EPA reviewed the procedures used to develop the 2011 attainment year inventory and found them to be reasonable and approvable.

2. Maintenance Demonstration

Section 175A of the CAA requires a state seeking redesignation to attainment to submit a SIP revision to provide for the maintenance of the NAAQS in the area ''for at least 10 years after the redesignation.'' The EPA has interpreted this as a showing of maintenance ''for a period of ten years following redesignation.'' Where the emissions inventory method of showing maintenance is used, its purpose is to show that emissions during the maintenance period will not increase over the attainment year inventory. *See* 1992 Calcagni Memorandum, pages 9–10.

For a demonstration of maintenance, emissions inventories are required to be projected to future dates to assess the influence of future growth and controls; however, the demonstration need not be based on modeling. *See Wall* v. *EPA, supra; Sierra Club* v. *EPA, supra. See also* 66 FR 53099–53100 and 68 FR 25430–32. Ecology developed projected inventories to show that the Tacoma area will remain in attainment through the year 2026. *See* Tables 1 through 6. These projected inventories, covering an interim year of 2017 and a maintenance plan end year of 2026, show that future emissions of NO_X, VOCs, ammonia, and direct $PM_{2.5}$ will remain at or below the 2011 attainment-level emissions for the 2006 24-hour $PM_{2.5}$ NAAQS. Sulfur dioxide levels are projected to increase slightly (5 tpy) between 2011 and 2026; however, this projected increase above the 2011 inventory is partially due to Washington's conservative estimation methodology using historical 10-year maximum emission levels in projecting the future point source inventory. Considering the relatively minor influence of secondary formation in the Tacoma airshed, the EPA does not believe the 5 tpy increase in SO_2 projected in the future year inventories would significantly impact maintenance of the $PM_{2.5}$ NAAQS should these conservative estimates (*i.e.* likely overestimating future emissions) prove correct.

Similarly, Ecology uses a conservative estimation methodology throughout the projected inventories, opting to forego taking credit for future emission reductions that are not known with relative certainty. For example, Washington did not incorporate into the 2017 and 2026 emissions inventories reductions that could come about from

[10] The Puyallup Tribe of Indians operates the curtailment program on tribal trust lands within the Tacoma area. Technical assistance and management of the Tacoma airshed is coordinated under a cooperative agreement. See *Cooperative Agreement between the Puget Sound Air Pollution Control Agency and the Puyallup Tribe of Indians Regarding Implementation of the Puyallup Tribe Air Quality Program* included in the docket for this action. The Puyallup Tribe of Indians also participates in the PSCAA Advisory Council.

[11] During both a first and second stage of impaired air quality, the curtailment programs allow a limited exemption for buildings with no adequate source of heat other than a solid fuel burning device, if certain qualification criteria are met.

the more stringent federal emissions standards in the proposed New Source Performance Standards for Residential Wood Heaters (79 FR 6330, February 3, 2014). Given the dominance of residential wood smoke in the $PM_{2.5}$ emissions inventory, finalization of this EPA rule could have a large impact on reducing future emissions. Washington's projections also do not incorporate $PM_{2.5}$ reductions from likely increased participation in PSCAA's voluntary change-out program in anticipation of the ban on uncertified wood stoves in the Tacoma area after September 2015. Lastly, because the wood stove curtailment program is only in effect during a handful of days when inversion conditions exist, these reductions are also not captured in the annual or ''typical winter day'' inventories shown in Tables 1 and 2. The EPA has reviewed the documentation provided by Washington for developing the 2017 and 2026 emissions inventories for the Tacoma area. Based on our review, the EPA is proposing to determine that the inventories are reasonable and approvable. The EPA is also proposing to determine that the projected emissions inventories show that the Tacoma area will continue to maintain the 2006 24-hour $PM_{2.5}$ standard during the maintenance period.

3. Monitoring Network

There are three $PM_{2.5}$ monitors in the Tacoma area. Washington's maintenance plan includes a commitment to continue to operate its EPA-approved monitoring network, as necessary to demonstrate ongoing compliance with the 2006 24-hour $PM_{2.5}$ NAAQS. Ecology will consult with the EPA prior to making any necessary changes to the $PM_{2.5}$ monitoring network and will continue to quality assure the monitoring data in accordance with the requirements of 40 CFR part 58.

4. Verification of Continued Attainment

Washington will acquire ambient monitoring and source emission data to track attainment and maintenance. Washington will also track the progress of the maintenance demonstration by periodically updating the emissions inventory as required by the Annual Air Emissions Reporting Requirements Rule (AERR), or as required by federal regulation during the maintenance plan period. This includes developing annual inventories for major point sources and a comprehensive periodic inventory covering all source categories every three years. Tracking will include the evaluation of annual and periodic evaluations for any significant emission increases above the 2011 attainment year levels.

5. Contingency Measures

The contingency plan provisions are designed to prevent or promptly correct a violation of the 2006 24-hour $PM_{2.5}$ NAAQS that occurs in the area after redesignation. Section 175A of the CAA requires that a maintenance plan include such contingency measures as the EPA deems necessary to ensure that Washington will promptly correct a violation of the 2006 24-hour $PM_{2.5}$ NAAQS that occurs in the area after redesignation. The maintenance plan should identify the events that would ''trigger'' the adoption and implementation of a contingency measure(s), the contingency measure(s) that would be adopted and implemented, and the schedule indicating the time frame by which the state would adopt and implement the measure(s).

Washington's maintenance plan outlines the procedures for the adoption and implementation of contingency measures to further reduce emissions should a violation occur. Washington's contingency measures include a warning level response and an action level response. An initial warning level response is triggered for the 2006 24-hour $PM_{2.5}$ NAAQS when the 98th percentile 24-hour $PM_{2.5}$ concentration for a single calendar year reaches 35.5 $\mu g/m^3$ or greater within the area. An action level response will be prompted by any one of the following: (1) A two year average of the 98th percentile reaches 35.5 $\mu g/m^3$ or greater within the area; or (2) a violation of the standard occurs in the area (*i.e.* a three-year average of the 98th percentile reaches 35.5 $\mu g/m^3$ or greater).

In order to select appropriate corrective measures for warning or action level triggers, PSCAA will conduct a study to determine the cause of exceeding the trigger levels and the control measures necessary to mitigate the problem. The study will evaluate whether the trend, if any, is likely to continue and if so, the control measures necessary to reverse the trend taking into consideration ease and timing for implementation as well as economic and social considerations. Based on the results of the analysis, contingency measures will be selected. However, if a new measure is already promulgated and scheduled to be implemented at the federal or state level at such time after the exceedance, and that measure or control is determined to be sufficient to address the upward trend in air quality, additional local measures may be unnecessary. PSCAA will submit to the EPA an analysis to demonstrate the proposed measures are adequate to return the area to attainment.

Should a warning level response be triggered, measures that can be implemented in a short time will be selected in order to be in place within 18 months from the determination of a warning level event based on quality assured data. Should an action level response be triggered, implementation of necessary control measures will take place as expeditiously as possible, but in no event later than 18 months after PSCAA makes a determination, based on quality-assured ambient data, that an action level trigger has been exceeded. Adoption of additional control measures is subject to necessary administrative and legal processes.

Washington has identified the following potential contingency measures for the maintenance plan.

- Measures to address emissions from residential wood combustion (*e.g.* emissions from fireplaces under the existing authority granted in Revised Code of Washington 70.94.477). Residential wood combustion represents the largest emissions inventory source category at 76% of direct $PM_{2.5}$ emissions.
- Additional measures to address other $PM_{2.5}$ sources identified in the emissions inventory such as onroad vehicles, nonroad vehicles and engines, industrial sources, and dust. These source categories represent 7%, 4%, 4%, and 6%, respectively, of the current emissions inventory.

6. The EPA's Evaluation of VOC and Ammonia Precursors in Washington's Maintenance Plan

With regard to the redesignation of the Tacoma area in evaluating the effect of the Court's remand of the EPA's 1997 $PM_{2.5}$ Implementation Rule, which included presumptions against consideration of VOC and ammonia as $PM_{2.5}$ precursors, the EPA in this proposed rulemaking action is also considering the impact of the decision on the maintenance plan required under sections 175A and 107(d)(3)(E)(iv). To begin with, the EPA notes that the area has attained the 2006 24-hour $PM_{2.5}$ NAAQS and that Washington has shown that attainment of the standard is due to permanent and enforceable emission reductions.

The EPA proposes to determine that the Washington maintenance plan shows continued maintenance of the 2006 24-hour $PM_{2.5}$ NAAQS by tracking the levels of direct $PM_{2.5}$ and associated precursors which brought about attainment of the standard in the

Tacoma area. The EPA, therefore, believes that the only additional consideration related to the maintenance plan requirements that results from the *NRDC* decision is that of assessing the potential role of VOC and ammonia in demonstrating continued maintenance in this area. Based upon emission inventory documentation provided by Washington and supporting information, the EPA believes that the maintenance plan for the Tacoma area need not include any additional local control measures for VOC or ammonia in order to provide for continued maintenance of the 2006 24-hour $PM_{2.5}$ NAAQS.

First, VOC emission levels in the Tacoma area have historically been well-controlled under SIP requirements related to ozone and other pollutants. Second, total ammonia emissions throughout the Tacoma area are low, especially in comparison to the total amounts of SO_2, NO_X, and direct $PM_{2.5}$ emissions from sources in the area. Emissions inventories for 2017 and 2026 show that VOC and ammonia emissions are projected to decrease by 1,754 tpy and 49 tpy, respectively, between 2011 and 2026. See Tables 5 and 6. Given that the Tacoma area is already attaining the 2006 24-hour $PM_{2.5}$ NAAQS even with the current level of emissions from sources in the area, the downward trend of emissions inventories would be consistent with continued attainment. Thus, the EPA believes that there is ample justification to conclude that the Tacoma area should be redesignated, even taking into consideration the emissions of other precursors potentially relevant to $PM_{2.5}$. After consideration of the D.C. Circuit's *NRDC* decision, and for the reasons set forth in this rulemaking action, the EPA proposes to approve Washington's maintenance plan and request to redesignate the Tacoma area to attainment for the 2006 24-hour $PM_{2.5}$ standard.

C. Motor Vehicle Emissions Budgets

Section 176(c) of the CAA requires federal actions in nonattainment and maintenance areas to ''conform to'' the goals of SIPs. This means that such actions will not cause or contribute to violations of a NAAQS, worsen the severity of an existing violation, or delay timely attainment of any NAAQS or any interim milestone. Actions involving Federal Highway Administration (FHWA) or Federal Transit Administration (FTA) funding or approval are subject to the transportation conformity rule (40 CFR part 93, subpart A). Under this rule, metropolitan planning organizations (MPOs) in nonattainment and maintenance areas coordinate with state air quality and transportation agencies, the EPA, and the FHWA and FTA to demonstrate that their long range transportation plans and transportation improvement programs (TIP) conform to applicable SIPs. This is typically determined by showing that estimated emissions from existing and planned highway and transit systems are less than or equal to the MVEBs contained in the SIP.

On November 3, 2014, Washington submitted a SIP revision that contains the $PM_{2.5}$ and NO_X on-road mobile source budgets. In a separate and concurrent process, the EPA is conducting a process to find adequate the MVEBs which are associated with the Washington maintenance plan for the Tacoma area. Concurrently with the EPA's proposal to approve the SIP, a notice will be posted on the EPA's Web site at *http://www.epa.gov/otaq/state resources/transconf/currsips.htm* for the purpose of opening a 30-day public comment period on the adequacy of the MVEBs in the maintenance plan for the Tacoma area. That notice will inform the public of the availability of the Washington SIP revision on Ecology's Web site. Interested members of the public can access Washington's November 3, 2014 SIP revision on line at *www.regulations.gov,* Docket No. EPA–R10–OAR–2014–0808. Following the EPA's public comment period, responses to any comments received will be addressed. The EPA has reviewed the MVEBs and found them consistent with the maintenance plan and that the budgets meet the criteria for adequacy and approval. Additional information pertaining to the review of the MVEBs can be found in the technical support document (TSD) in this docket titled *Adequacy Findings for the Motor Vehicle Emissions Budgets in the Maintenance Plan for the Tacoma, WA Fine Particulate Matter ($PM_{2.5}$) National Ambient Air Quality Standard (NAAQS) Nonattainment Area.*

VI. Proposed Actions

The EPA is proposing to redesignate the Tacoma area, including tribal trust and non-trust lands, from nonattainment to attainment for the 2006 24-hour $PM_{2.5}$ NAAQS.[12] The EPA has evaluated the technical analyses, emissions inventories, and motor vehicle emission budgets covering the entire nonattainment area. We have determined that the Tacoma area meets the criteria set forth in section 107(d)(3)(E) of the CAA. The EPA believes that the monitoring data demonstrate that the Tacoma area is attaining and will continue to attain the 2006 24-hour $PM_{2.5}$ NAAQS. The EPA is also proposing to approve the associated maintenance plan for the Tacoma area as a revision to the Washington SIP because it meets the requirements of CAA section 175A. For transportation conformity purposes, the EPA is also proposing to approve MVEBs for the Tacoma area. Final approval of the redesignation request would change the official designation of the Tacoma area for the 2006 24-hour $PM_{2.5}$ NAAQS found at 40 CFR part 81, from nonattainment to attainment, and would incorporate into the Washington SIP the associated maintenance plan ensuring continued attainment of the 2006 24-hour $PM_{2.5}$ NAAQS in the area for the next 10 years, until 2026. This proposed action was reached after offering consultation to the Puyallup Tribe of Indians. The EPA did not receive a request for consultation. The EPA is soliciting public comments on the issues discussed in this document. These comments will be considered before taking final action.

VII. Statutory and Executive Order Reviews

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

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);

[12] Control measures on tribal trust land will continue to be regulated pursuant to 40 CFR part 49, which includes the Federal Implementation Plans under the Clean Air Act for Indian Reservations in Idaho, Oregon and Washington (70 FR 18074, April 8, 2005) and Review of New Sources and Modifications in Indian Country (76 FR 38748, July 1, 2011).

• 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 the requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and

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

The SIP is not approved to apply on any Indian reservation land in Washington except for as specifically noted below and is also not approved to apply in any other area in Washington where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country where the SIP does not apply, the rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it impose substantial direct costs on tribal governments or preempt tribal law. Washington's SIP is approved to apply to non-trust land within the exterior boundaries of the Puyallup Indian Reservation, also known as the 1873 Survey Area. Under the *Puyallup Tribe of Indians Settlement Act of 1989,* 25 U.S.C. 1773, Congress explicitly provided state and local agencies in Washington authority over activities on non-trust lands within the 1873 Survey Area. Consistent with EPA policy, the EPA provided a consultation opportunity to the Puyallup Tribe in a letter dated September 8, 2014. The EPA did not receive a request for consultation.

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

Dated: November 14, 2014.

Dennis J. McLerran,

Regional Administrator, Region 10.

[FR Doc. 2014–28150 Filed 12–10–14; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[EPA–HQ–SFUND–1983–0002 [FRL–9920–31–Region–5]]

National Oil and Hazardous Substance Pollution Contingency Plan National Priorities List

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule; notice of intent.

SUMMARY: The Environmental Protection Agency (EPA), Region 5 is issuing a Notice of Intent to Delete the Belvidere Municipal Landfill Superfund Site (Site) located in Belvidere, Illinois from the National Priorities List (NPL) and requests public comments on this proposed action. The NPL, promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended, is found at Appendix B of 40 CFR part 300 which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). The EPA and the State of Illinois, through the Illinois Environmental Protection Agency (IEPA), have determined that all appropriate response actions under CERCLA, other than operation, maintenance, and five-year reviews, have been completed. However, this deletion does not preclude future actions under Superfund.

DATES: Comments must be received by January 12, 2015.

ADDRESSES: Submit your comments, identified by Docket ID no. EPA–HQ–SFUND–1983–0002, by one of the following methods:

• *http://www.regulations.gov:* Follow on-line instructions for submitting comments.

• *Email:* Thomas Smith, Remedial Project Manager, at *smith.thomasl@epa.gov* or Janet Pope, Community Involvement Coordinator, at *pope.janet@epa.gov.*

• *Fax:* Gladys Beard at (312) 886–4071.

• *Mail:* Thomas Smith, Remedial Project Manager, U.S. Environmental Protection Agency (SR–6J), 77 W. Jackson, Chicago, IL 60604, (312) 886–6540 or Janet Pope, Community Involvement Coordinator, U.S. Environmental Protection Agency (SI–7J), 77 W. Jackson, Chicago, IL 60604, (312) 353–0628 or 1–800–621–8431.

• *Hand delivery:* Janet Pope, Community Involvement Coordinator, U.S. Environmental Protection Agency (SI–7J), 77 W. Jackson Boulevard, Chicago, IL 60604. Such deliveries are only accepted during the docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID no. EPA–HQ–SFUND–1983–0002. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or email. The *http://www.regulations.gov* Web site is an ''anonymous access'' system, which means 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 *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, 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 *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 the hard copy. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy at:

• U.S. Environmental Protection Agency, Region 5, 77 W. Jackson Blvd., Chicago, IL 60604, Phone: (312) 353–1063, Hours: Monday through Friday, 8:30 a.m. to 4:30 p.m. CST, excluding Federal holidays.

• Ida Public Library, 320 N. State St., Belvidere, IL 61008, Phone: (815) 544–3838, Hours: Monday through

Friday 9:00 a.m. to 8:00 p.m. CST, and Saturday 9:00 a.m. to 6:00 p.m. CST.

SUPPLEMENTARY INFORMATION: In the ''Rules and Regulations'' Section of today's **Federal Register**, we are publishing a direct final Notice of Deletion of the Belvidere Municipal Landfill Superfund Site without prior Notice of Intent to Delete because we view this as a noncontroversial revision and anticipate no adverse comment(s). We have explained our reasons for this deletion in the preamble to the direct final Notice of Deletion, and those reasons are incorporated herein. If we receive no adverse comment(s) on this deletion action, we will not take further action on this Notice of Intent to Delete. If we receive adverse comment(s), we will withdraw the direct final Notice of Deletion, and it will not take effect. We will, as appropriate, address all public comments in a subsequent final Notice of Deletion based on this Notice of Intent to Delete. We will not institute a second comment period on this Notice of Intent to Delete. Any parties interested in commenting must do so at this time.

For additional information, see the direct final Notice of Deletion which is located in the *Rules* section of this **Federal Register.**

List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous waste, Hazardous substances, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

Authority: 33 U.S.C. 1321(c)(2); 42 U.S.C. 9601–9657; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; E.O. 12580, 52 FR 2923; 3 CFR, 1987 Comp., p. 193.

Dated: November 24, 2015.

Susan Hedman,

Regional Administrator, Region 5.

[FR Doc. 2014–29031 Filed 12–10–14; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[EPA–HQ–SFUND–1993–0003; FRL–9920–05–OSWER]

National Oil and Hazardous Substances Pollution Contingency Plan; Proposed Rule; Withdrawal

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule; withdrawal.

SUMMARY: The Environmental Protection Agency (EPA) is withdrawing its May 10, 1993 proposal to add the ASARCO, Inc. (Globe Plant) site in Denver, Colorado to the Superfund National Priorities List (NPL) because the site is being deferred to the State of Colorado. The majority of the cleanup work at this site has been completed under state oversight. An enforceable agreement is in place to complete the cleanup and maintain the remedy, which will be protective of human health and the environment.

DATES: The proposed rule to add the ASARCO Inc. (Globe Plant) site to the NPL published at 58 FR 27507 (May 10, 1993) is withdrawn effective December 11, 2014.

FOR FURTHER INFORMATION CONTACT: Terry Jeng, phone: (703) 603–8852, email: *jeng.terry@epa.gov,* Site Assessment and Remedy Decisions Branch, Assessment and Remediation Division, Office of Superfund Remediation and Technology Innovation (Mailcode 5204P), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue NW., Washington, DC 20460.

SUPPLEMENTARY INFORMATION: The ASARCO, Inc. (Globe Plant) site was proposed for addition to the NPL on May 10, 1993. Since that time the State of Colorado has been overseeing the remediation of the site under a Consent Decree with ASARCO, Inc. The remedy is nearing completion and redevelopment of the site, which will support long-term maintenance of the remedy, is imminent. Therefore, consistent with the EPA's November 2002 policy ''Guidelines for Withdrawing a Proposal to List a Site on the NPL (De-proposal)'' *http://www.epa.gov/superfund/sites/npl/hrsres/policy/dprop.pdf* the ASARCO, Inc. (Globe Plant) site's 1993 proposal to list is being withdrawn.

Please refer to Docket ID Number EPA–HQ–SFUND–1993–0003 for supporting documentation regarding this action.

The following outlines the basis for this withdrawal:

1. There are no further Fund-financed response actions necessary at this site. This site has been deferred to the State of Colorado. Completion of the remedy and long-term maintenance is being conducted under a State of Colorado Consent Decree.

2. EPA Region 8 conducted a reassessment of the site to evaluate current conditions. The site reassessment report, approved on July 2, 2014, found that the site no longer poses a significant threat to public health or the environment.

3. Future land use has been restricted through an environmental covenant so that no residential development can occur.

4. The planned redevelopment of the site into an industrial park will provide additional protections to public health and the environment by ensuring the long-term maintenance of the remedy.

List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous substances, Hazardous waste, Intergovernmental relations, Natural resources, Oil pollution, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

Authority: 33 U.S.C. 1321(c)(2); 42 U.S.C. 9601–9657; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; E.O. 12580, 52 FR 2923, 3 CFR, 1987 Comp., p. 193.

Dated: December 3, 2014.

Mathy Stanislaus,

Assistant Administrator, Office of Solid Waste and Emergency Response.

[FR Doc. 2014–28978 Filed 12–10–14; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Chapter 2

RIN 0750–AI46

Defense Federal Acquisition Regulation Supplement: Appendix F—Energy Receiving Reports (DFARS Case 2014–D024)

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Proposed rule.

SUMMARY: DoD is proposing to amend the Defense Federal Acquisition Regulation Supplement (DFARS) to identify the electronic Wide Area WorkFlow Energy Receiving Report as the equivalent of the paper forms for the Material Inspection and Receiving Report, for overland shipments, and the Material Inspection And Receiving Report, Tanker/Barge, for waterborne shipments.

DATES: Comments on the proposed rule should be submitted in writing to the address shown below on or before February 9, 2015, to be considered in the formation of a final rule.

ADDRESSES: Submit comments identified by DFARS Case 2014–D024, using any of the following methods:

○ *Regulations.gov: http://www.regulations.gov.* Submit comments via the Federal eRulemaking portal by entering ''DFARS Case 2014–D024'' under the heading ''Enter keyword or ID'' and selecting ''Search.'' Select the link ''Submit a Comment'' that corresponds with ''DFARS Case 2014–D024.'' Follow the instructions provided at the ''Submit a Comment'' screen. Please include your name, company name (if any), and ''DFARS Case 2014–D024'' on your attached document.

○ *Email: osd.dfars@mail.mil.* Include DFARS Case 2014–D024 in the subject line of the message.

○ *Fax:* 571–372–6094.

○ *Mail:* Defense Acquisition Regulations System, Attn: Ms. Jennifer Hawes, OUSD(AT&L)DPAP/DARS, Room 3B941, 3060 Defense Pentagon, Washington, DC 20301–3060.

Comments received generally will be posted without change to *http://www.regulations.gov,* including any personal information provided. To confirm receipt of your comment(s), please check *www.regulations.gov,* approximately two to three days after submission to verify posting (except allow 30 days for posting of comments submitted by mail).

FOR FURTHER INFORMATION CONTACT: Jennifer Hawes, Defense Acquisition Regulations System, OUSD(AT&L)DPAP/DARS, Room 3B941, 3060 Defense Pentagon, Washington, DC 20301–3060. Telephone 571–372–6115.

SUPPLEMENTARY INFORMATION:

I. Background

DoD is proposing to amend Appendix F of the DFARS to identify the Wide Area WorkFlow (WAWF) Energy Receiving Report as the electronic equivalent of the paper DD Form 250, Material Inspection and Receiving Report, for overland shipments and the DD Form 250–1, Material Inspection And Receiving Report, Tanker/Barge, for waterborne shipments. DFARS 232.7002, Policy, requires contractors to submit receiving reports in electronic form. DFARS 232.7003, Procedures, identifies the accepted electronic form for receiving reports as WAWF. In addition, the clause at DFARS 252.232–7003, Electronic Submission of Payment Requests and Receiving Reports, notifies contractors of the requirement to submit receiving reports using WAWF in nearly all cases.

II. Discussion

This proposed rule makes the following amendments to Appendix F:

- F–101(a) is amended to clarify that the WAWF Energy Receiving Report is the electronic equivalent of the paper DD Form 250 for overland shipments and the DD Form 250–1 for waterborne shipments.
- F–101(b) is amended to clarify that use of DD Form 250 ''series documents'' is on an exception basis and that the exceptions to WAWF are located at DFARS 232.7002(a) instead of 232.7003(a).
- The titles of subsections F–103(d) and F–104(b) of Appendix F, on the use and application of the DD Form 250–1, are amended to include the WAWF Energy Receiving Report.
- The title of F–301 is amended to include WAWF Energy Receiving Reports.
- F–301(b)(13) is amended to clarify that the three-character project code must be entered in the MARK FOR/CODE block of the receiving report, when the project code is provided in the contract.

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 is not a significant regulatory action and, therefore, was not subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

IV. Regulatory Flexibility Act

DoD does not expect this proposed 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 proposed rule merely identifies the Wide Area WorkFlow (WAWF) Energy Receiving Report as the electronic equivalent to the DD Form 250 for overland shipments and the DD Form 250–1 for waterborne shipments. However, an initial regulatory flexibility analysis has been performed and is summarized as follows:

DFARS 232.7002, Policy, requires contractors to submit payment and receiving reports in electronic form, and DFARS 232.7003, Procedures, identifies WAWF as the accepted electronic form. In addition, the clause at DFARS 252.232–7003, Electronic Submission of Payment Requests and Receiving Reports, requires payment requests and receiving reports using WAWF in nearly all cases. This rule proposes to amend Appendix F to identify the WAWF Energy Receiving Report as the electronic equivalent to the DD Form 250 for overland shipments and the DD Form 250–1 for waterborne shipments.

The proposed rule should have minimal impact on DoD contractors who are not exempt from using WAWF. Exempt classes of contracts are those that are listed under the seven categories of contracts at DFARS 232.7002, Policy. The exact number of small entities affected is unknown. The impact of the rule, however, is expected to be a positive one by permitting online electronic submission of WAWF Energy Receiving Reports in lieu of completing and submitting paper versions of the DD Forms 250 and 250–1.

The projected recordkeeping is limited to that required to properly record shipping and receiving information under Government contracts. Preparation of these records requires clerical and analytical skills to create the documents and input them into the electronic WAWF system.

The rule does not duplicate, overlap, or conflict with any other Federal rules. There are no known significant alternative approaches to the rule that would meet the requirements of the statute.

DoD invites comments from small business concerns and other interested parties on the expected impact of this rule on small entities.

DoD 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 (DFARS Case 2014–D024), in correspondence.

V. Paperwork Reduction Act

The rule contains information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C chapter 35). However, these changes to the DFARS do not impose additional information collection requirements to the paperwork burden previously approved under OMB Control Number 0704–0248,

entitled Material Inspection and Receiving Report.

List of Subjects in 48 CFR Appendix F to Chapter 2

Government procurement.

Manuel Quinones,

Editor, Defense Acquisition Regulations System.

Therefore, 48 CFR chapter 2, subchapter I, is proposed to be amended in appendix F as follows:

■ 1. The authority citation for appendix F to chapter 2 continues to read as follows:

Authority: 41 U.S.C. 1303 and 48 CFR chapter 1.

■ 2. Amend appendix F to chapter 2:

■ a. In part 1, section F–101 by—

■ i. Revising paragraph (a); and

■ ii. Removing from paragraph (b) ''DD Form 250 is'' and adding ''DD Form 250 series documents are'' in its place; and removing ''(see DFARS 232.7003(a))'' and adding ''(see DFARS 232.7002(a))'' in its place.

■ b. In part 1, section F–103, amend paragraph (d) introductory text by removing ''Use the DD Form 250–1'' and adding ''Use the WAWF Energy RR or the DD Form 250–1'' in its place;

■ c. In part 1, section F–104, amend paragraph (b) introductory text by removing ''*DD Form 250–1''* and adding ''*WAWF Energy RR or the DD Form 250–1''* in its place;

■ d. Revise the part 3 heading; and

■ e. In part 3, section F–301, revise paragraph (b)(13).

The revisions read as follows:

Appendix F to Chapter 2—Material Inspection and Receiving Report

Part 1—Introduction

F–101 General.

(a) This appendix contains procedures and instructions for the use, preparation, and distribution of the Wide Area WorkFlow (WAWF) Receiving Report (RR), the WAWF Energy RR, and commercial shipping/packing lists used to document Government contract quality assurance. The WAWF RR is the electronic equivalent of the DD Form 250, Material Inspection and Receiving Report (MIRR). The WAWF Energy RR is the electronic equivalent of the DD Form 250 for over-land shipments and DD Form 250–1, Tanker/Barge Material Inspection and Receiving Report, for waterborne shipments.

* * * * *

Part 3—Preparation of the Wide Area Workflow (WAWF) Receiving Report (RR) and Energy RR

F–301—Preparation instructions.

* * * * *

(b) * * *

(13) MARKED FOR/CODE. Enter the code from the contract or shipping instructions. Only valid DoDAACs, MAPACs, or CAGE codes can be entered. Vendors should use the WAWF ''Mark for Rep'' and ''Mark for Secondary'' fields for textual marking information specified in the contract. Enter the three-character project code when provided in the contract or shipping instructions.

* * * * *

[FR Doc. 2014–28818 Filed 12–10–14; 8:45 am]

BILLING CODE 5001–06–P

Notices

Federal Register

Vol. 79, No. 238

Thursday, December 11, 2014

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[Doc. No. TM–15–01]

Notice of Request for Extension and Revision of a Currently Approved Information Collection

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), this notice announces the Agricultural Marketing Service's (AMS) intention to request approval, from the Office of Management and Budget, for an extension of and revision to the currently approved information collection Specialty Crop Block Grant Program (SCBGP).

DATES: Comments on this notice must be received by February 9, 2015 to be assured of consideration.

Additional Information or Comments: Interested persons are invited to submit comments concerning this information collection document. Comments should be submitted online at *www.regulations.gov* or sent to John Miklozek, Specialty Crop Block Grant Program, Marketing Grants and Compliance Team, Transportation and Marketing Program Agricultural Marketing Service, U.S. Department of Agriculture; 1400 Independence Avenue SW., Stop 0269, South Building, Washington, DC 20250–0269; by phone (202) 720–1403; or by facsimile to (202) 690–4152. All comments should reference the docket number (TM–15–01), the date, and the page number of this issue of the **Federal Register**. All comments received will be posted without change, including any personal information provided, online at *http://www.regulations.gov* and will be made available for public inspection at the above physical address during regular business hours.

SUPPLEMENTARY INFORMATION:

Title: Specialty Crop Block Grant Program.

OMB Number: 0581–0248.

Expiration Date of Approval: 3 years from date of OMB approval.

Type of Request: Extension and revision of a currently approved information collection.

Abstract: The information collection requirements in this request are applied only to those State departments of agriculture who voluntarily participate in the SCBGP. The information collected is needed to certify that grant participants are complying with applicable program regulations. Data collected is the minimum information necessary to effectively carry out the requirements of the program, and to fulfill the intent of Section 101 of the Competitiveness Act of 2004, as amended by Section 10010 of the Agriculture Act of 2014, Public Law 113–79, the Farm Bill.

The overall estimated burden hours for this collection of information is estimated to average 3.275 hours per response.

Respondents: State departments of agriculture.

Estimated Number of Respondents: 56 (All 50 States, the District of Columbia, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, the Commonwealth of Puerto Rico, and the U.S. Virgin Islands).

Estimated Total Annual Responses: 560.

Estimated Total Annual Burden on Respondents: 1,834 hours.

State departments of agriculture who wish to participate in the SCBGP would have to submit the following:

(a) SF–424, ''Application for Federal Assistance'', (approved under OMB collection number 4040–0004) is required to apply for Federal assistance.

(b) SF–424B, ''Assurances-Non-Construction Programs'', (approved under OMB collection number 4040–0007) to assure the Federal government of the applicant's legal authority to apply for Federal assistance.

(c) State Plan Narrative. Completed applications must include a State Plan Narrative to show how grant funds will be utilized to enhance the competitiveness of specialty crops.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 10 hours per response.

Respondents: State departments of agriculture.

Estimated Number of Respondents: 56 (All 50 States, the District of Columbia, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, the Commonwealth of Puerto Rico, and the U.S. Virgin Islands).

Estimated Total Annual Responses: 56.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 560 hours.

Before funds are dispersed, State departments of agriculture must complete the following forms:

(a) Grant Agreement. The Grant Agreement (AMS–33) sets forth the agreed upon responsibilities of AMS project work. It also indicates the agreed upon grant funding dollar amounts and the beginning date and ending date of the project work and the Grant Agreement. One copy of this Grant Agreement is required to be returned to AMS with the recipient's signatures and dated for each grant.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 2 hours per response.

Respondents: State departments of agriculture.

Estimated Number of Respondents: 56.

Estimated Number of Responses: 56.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 112 hours.

(b) SF–270, ''Request for Advance and Reimbursement'' (approved under OMB collection number 0348–0004) is required whenever the recipients request an advance or reimbursement of Federal grant funds. AMS expects that at least three (3) SF–270 forms will be submitted during the grant agreement period.

(c) Annual Performance Report. The Annual Performance Report is required if a grant period is more than one year in length. The Annual Performance Report is written documentation required to notify AMS about the work activities and progress towards completing the recipients' and subrecipients' established project activities, goals and outcomes. AMS

expects that at least two (2) Annual Performance Reports will be submitted during the grant agreement period.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 3 hours per response.

Respondents: State departments of agriculture.

Estimated Number of Respondents: 56.

Estimated Number of Responses: 112.

Estimated Number of Responses per Respondent: 2.

Estimated Total Annual Burden on Respondents: 336 hours.

(d) Final Performance Report. The Final Performance Report is written information required by AMS within 90 days after the ending date of the grant agreement. This information is utilized as final documentation of completion of the project activities, goals and outcomes.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 6 hours per response.

Respondents: State departments of agriculture.

Estimated Number of Respondents: 56.

Estimated Number of Responses: 56.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 336 hours.

(e) Request for Grant Amendment. A State department of agriculture participating in the SCBGP would have to submit a Request for Grant Amendment to AMS if there is a change in key personnel, scope or objectives of the grant, budget changes that exceed more than 20 percent of a project's total budget, request to purchase of special purpose equipment, request for foreign travel and travel costs for government officials, and/or an extension of the grant period not to exceed 3 calendar years.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 1 hour per response.

Respondents: State departments of agriculture.

Estimated Number of Respondents: 56.

Estimated Number of Responses: 56.

Estimated Number of Responses per Respondent: 2.

Estimated Total Annual Burden on Respondents: 112 hours.

(f) SF–425 ''Federal Financial Report'' (approved under OMB collection number 0348–0061) is to be completed 90 days after the expiration date of the grant period to comply with various legal and regulatory requirements as described within the form.

(g) Audit Report. A State is required to conduct an audit of SCBGP expenditures and an audit report is required to be submitted to AMS no later than 30 days after completion of the audit.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 3 hours per response.

Respondents: State departments of agriculture.

Estimated Number of Respondents: 56.

Estimated Number of Responses: 56.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 168 hours.

(h) SF–428 ''Tangible Personal Property Report'' (approved under OMB collection number 3090–0289) is to be completed 90 days after the expiration date of the grant period to comply with various legal and regulatory requirements as described within the form.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 2.75 hour per response.

Respondents: State departments of agriculture.

Estimated Number of Respondents: 56.

Estimated Number of Responses: 56.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 154 hours.

Finally, State departments of agriculture are required to retain records pertaining to the SCBGP for 3 years after completion of the grant period or until final resolution of any audit findings or litigation claims relating to the SCBGP. This is a part of normal business practice.

This program would not be maintained by any other Agency, therefore, the requested information will not be available from any other existing records.

AMS is committed to compliance with the Government Paperwork Elimination Act (GPEA), which requires Government agencies in general to provide the public the option of submitting information or transacting business electronically to the maximum extent possible. The SF–424 and SF–424B forms and State Plan (Narrative) can be completed electronically and are required to be submitted electronically through *www.grants.gov*.

The SF–425, SF–428, and SF–270 forms can be filled out electronically and submitted electronically. These forms can be found at *http://www.whitehouse.gov/omb/grants_forms/*.

The Annual Performance Report, Final Performance Report, Audit Report, and Request for Grant Amendment can be submitted electronically. The Grant Agreement requires an original signature and can be submitted by mail.

Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. Comments may be sent to John Miklozek at the above physical address, by telephone (202) 720–1403, or by email at *scblockgrants@usda.gov*. All comments received will be available for public inspection during regular business hours at the same address.

All responses to this notice will be summarized and included in the request for OMB approval. All comments will become a matter of public record.

Dated: December 5, 2014.

Rex A. Barnes,

Associate Administrator, Agricultural Marketing Service.

[FR Doc. 2014–28991 Filed 12–10–14; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: Alaska License Limitation Program for Groundfish, Crab, and Scallops.

OMB Control Number: 0648–0334.

Form Number(s): None.

Type of Request: Regular (revision and extension of a currently approved information collection).

Number of Respondents: 100.

Average Hours per Response: Application for Transfer of License Limitation Program Groundfish/Crab License, 1 hour; Application for Transfer License Limitation Program Scallop License, 1 hour; and Transfer appeals, 4 hours.

Burden Hours: 168.

Needs and Uses: This request is for revision and extension of a currently approved information collection.

The License Limitation Program (LLP) restricts access to the commercial groundfish fisheries, commercial crab fisheries and commercial scallop fisheries in the Exclusive Economic Zone off Alaska except for certain areas where alternative programs exist. The intended effect of the LLP is to limit the number of participants and reduce fishing capacity in fisheries off Alaska.

For a vessel designated on an LLP license, the LLP license authorizes the type of fishing gear that may be used by the vessel, the maximum size of the vessel, and whether the vessel may catch and process fish at sea or if it is limited to delivering catch without at-sea processing. LLP licenses that allow vessels to catch and process at-sea are assigned a catcher/processor endorsement. LLP licenses specify the maximum length over all (MLOA) of the vessel to which that LLP license may be assigned. Regulations implementing the LLP prohibit participants in LLP groundfish fisheries from using a vessel to fish for LLP groundfish that has a length overall that is greater than the MLOA specified on the LLP license. The LLP also includes a species endorsement for Pacific cod in the BSAI and GOA.

An LLP license is required onboard any vessel deployed in scallop fisheries in Federal waters off Alaska (except for some diving operations). The scallop LLP is intended to limit the number of participants and reduce fishing capacity in the scallop fishery off Alaska. The scallop LLP will limit the number of participants and reduce fishing capacity in the scallop fishery off Alaska.

Affected Public: Business or other for-profit organizations.

Frequency: On occasion.

Respondent's Obligation: Required to obtain or retain benefits.

This information collection request may be viewed at *reginfo.gov*. Follow the instructions to view Department of Commerce collections currently under review by OMB.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *OIRA_Submission@omb.eop.gov* or fax to (202) 395–5806.

Dated: December 8, 2014.

Glenna Mickelson,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2014–29058 Filed 12–10–14; 8:45 am]

BILLING CODE 1310–22–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: Pacific Islands Region Permit Family of Forms.

OMB Control Number: 0648–0490.

Form Number(s): None.

Type of Request: Regular (revision and extension of a currently approved information collection).

Number of Respondents: 243.

Average Hours Per Response: Hawaii longline limited entry permit transfer, 1 hour; American Samoa longline limited entry permit renewal and additional permit application, 45 minutes; American Samoa longline permit transfer, 1 hour, 15 minutes; Main Hawaiian Islands longline prohibited area exemptions and permit appeals, 2 hours; all other permits, 30 minutes.

Burden Hours: 137.

Needs and Uses: This request is for revision and extension of a current information collection. Changes have been made to the forms and instructions. The forms have been reformatted, the requirement to collect the TIN has been added and declaratory language has been added for signatures.

Regulations at 50 CFR 665, Subpart F, require that a vessel must be registered to a valid federal fishing permit if it is used to fish with longline gear for Pacific pelagic management unit species (PMUS), land or transship longline caught PMUS, or receive longline caught PMUS from a longline vessel, within the Exclusive Economic Zone (EEZ) of United States (U.S.) islands in the central and western Pacific, or to fish with troll and handline gear for PMUS within the EEZ around each of the Pacific Remote Island Areas (PRIA).

Regulations at 50 CFR parts 665, Subparts D and E, require that the owner of a vessel used to fish for, land, or transship bottomfish management unit species (BMUS) using a large vessel (50 ft or longer) around Guam, or using a vessel within the EEZ around each of the PRIA, must register it to a valid federal fishing permit they hold.

Regulations at 50 CFR 665, Subparts B, C, D and E, require that a vessel used to fish for precious corals within the EEZ of U.S. islands in the central and western Pacific, must be registered to a valid federal fishing permit for a specific precious coral permit area.

This collection of information is needed for permit issuance, to identify actual or potential participants in the fishery, determine qualifications for permits, and to help measure the impacts of management controls on the participants in the fishery. The permit program is also an effective tool in the enforcement of fishery regulations and facilitates communication between the National Marine Fisheries Service (NMFS) and fishermen.

Affected Public: Business or other for-profit organizations.

Frequency: Annually, monthly, on occasion and variable.

Respondent's Obligation: Mandatory.

This information collection request may be viewed at *reginfo.gov*. Follow the instructions to view Department of Commerce collections currently under review by OMB.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *OIRA_Submission@omb.eop.gov* or fax to (202) 395–5806.

Dated: December 8, 2014.

Glenna Mickelson,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2014–29059 Filed 12–10–14; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–201–837]

Certain Magnesia Carbon Bricks From Mexico: Rescission of Antidumping Duty Administrative Review; 2013–2014

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (the Department) is rescinding its administrative review of the antidumping duty order on certain magnesia carbon bricks from Mexico for the period of review (POR) September 1, 2013, through August 31, 2014, based

on the withdrawal of all requests for review.

DATES: *Effective Date:* December 11, 2014.

FOR FURTHER INFORMATION CONTACT: David Goldberger, AD/CVD Operations, Office II, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–4136.

SUPPLEMENTARY INFORMATION:

Background

On September 2, 2014, the Department published in the **Federal Register** a notice of opportunity to request administrative review of the antidumping duty order on certain magnesia carbon bricks from Mexico for the POR.[1]

On September 30, 2014, in accordance with section 751(a) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.213(b), the Department received a timely request from Resco Products, Inc. (Resco), the petitioner in the underlying investigation, and Magnesita Refractories Company (Magnesita), a domestic producer of magnesia carbon bricks, to conduct an administrative review of the POR sales of RHI-Refmex S.A. de C.V. (RHI), Trafinsa S.A. de C.V. (Trafinsa), Vesuvius Mexico S.A. de C.V. (Vesuvius), and Ferro Alliages & Mineraux Inc. (Ferro Alliages). Also on this date, RHI timely requested a review of its POR sales.

On October 30, 2014, the Department published in the **Federal Register** a notice of initiation of an administrative review of the antidumping duty order on certain magnesia carbon bricks from Mexico with respect to RHI, Trafinsa, Vesuvius, and Ferro Alliages.[2]

On November 18, 2014, RHI timely withdrew its request for review. On November 20, 2014, Resco and Magnesita withdrew their request for review of RHI, Trafinsa, and Vesuvius. On December 2, 2014, Resco and Magnesita withdrew their request for review of Ferro Alliages.

Rescission of Administrative Review

Pursuant to 19 CFR 351.213(d)(1), the Department will rescind an administrative review, in whole or in part, if the parties that requested a review withdraw the request within 90 days of the date of publication of notice of initiation of the requested review. Resco and Magnesita, as well as RHI, withdrew their requests for review before the 90-day deadline (*i.e.,* January 28, 2015), and no other party requested an administrative review of the antidumping duty order on certain magnesia carbon bricks from Mexico for the POR. Therefore, in response to the timely withdrawal of requests for review and pursuant to 19 CFR 351.213(d)(1), the Department is rescinding this review in its entirety.

Assessment

The Department will instruct U.S. Customs and Border Protection (CBP) to assess antidumping duties on all appropriate entries. Antidumping duties shall be assessed at rates equal to the cash deposit of estimated antidumping duties required at the time of entry, or withdrawal from warehouse, for consumption, in accordance with 19 CFR 351.212(c)(1)(i). The Department intends to issue appropriate assessment instructions directly to CBP 15 days after the date of publication of this notice in the **Federal Register**.

Notification to Importers

This notice serves as the only reminder to importers of their responsibility, under 19 CFR 351.402(f)(2), to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

Notification Regarding Administrative Protective Order

This notice serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return or destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This notice is published in accordance with section 777(i)(1) of the Act, and 19 CFR 351.213(d)(4).

Dated: December 5, 2014.

Christian Marsh,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2014–29131 Filed 12–10–14; 8:45 am]

BILLING CODE 3510–DS–P

[1] *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review,* 79 FR 51958, 51959 (September 2, 2014).

[2] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 79 FR 64565, 64567 (October 30, 2014).

DEPARTMENT OF COMMERCE

International Trade Administration

Joint Department of Commerce and Department of Energy: Smart Cities-Smart Growth Business Development Mission to China—April 12–17, 2015

AGENCY: International Trade Administration, Commerce.

ACTION: Notice.

Mission Description

The United States Secretaries of Commerce Penny Pritzker and Energy Ernest Moniz will lead a Smart Cities-Smart Growth Business Development Mission to China from April 12–17, 2015. This mission was announced during President Obama's visit to China in November 2014. It will promote U.S. exports to China by supporting U.S. companies in launching or increasing their business in the marketplace for Smart Cities-Smart Growth products and services, such as green buildings, building energy retrofitting, building management, green data centers, carbon capture, utilization, and storage (CCUS), energy efficiency technologies, clean air and clean water technologies, waste treatment technologies, smart grid and green transportation. Key elements will include business-to-government and business-to-business meetings, market briefings, and networking events.

On November 12, President Obama and President Xi jointly announced the two countries' respective post-2020 climate targets in Beijing. This announcement is a pivotal step in addressing the global challenge of climate change and movement towards achieving the deep decarbonization of the global economy. This announcement should encourage other major economies to put forward ambitious commitments soon and should urge countries to work across traditional divides so that a strong global climate agreement can be concluded at the United Nations Climate Change Conference in Paris in late 2015. The announcement is the culmination of a major effort by the two countries, inspired by serious shared concern about the global effects of climate change and our commitment to leadership as the world's largest

economies, energy consumers, and carbon emitters.

This mission will build on strong climate change progress during the first six years of the Obama Administration, and supports the intent of the announcement, as it will help to achieve the ambitious climate goals of the announcement. It is one of several measures that will strengthen and expand U.S.-China clean energy cooperation, and support the deployment of cutting edge, innovative technologies to combat and adapt to climate change. Additionally, the recent announcements from President Obama and President Xi will spur new opportunities for U.S. clean technology companies in China.

The delegation will be composed of senior executives (equivalent to C-suite) from 20–25 U.S. firms, representing the mission's target sectors. This collaborative interagency approach highlights the shared interest among U.S. Government agencies in promoting China as a critical overseas market for U.S. business interests, and reflects the ''All of Government'' approach to President Obama's National Export Initiative.

Commercial Setting

Overview of China

In November 2013, following the Third Plenum of the 18th Chinese Communist Party Congress, President Xi Jinping rolled out an ambitious agenda to re-shape the Chinese economy and fully embrace the market as the ''decisive force'' in shaping the country's economic future. In order to continue China's labor force evolution to fuel its unprecedented growth, Xi directed his administration to implement policy changes that increase domestic consumption, stimulate domestic innovation, and develop a world-class services sector, supporting the expansion of China's middle class and movement of millions of rural Chinese citizens to urban centers.

U.S. goods exports in 2013 to China were $121.7 billion, up 10.2 percent from the previous year. Corresponding U.S. imports from China were $440.4 billion, up 3.5 percent. The U.S. goods trade deficit with China was $318.7 billion in 2013, up $3.6 billion from 2012. China is currently the third largest export market for U.S. goods.

U.S. exports of private commercial services to China were $37.4 billion in 2013, and U.S. imports were $14.3 billion. Sales of services in China by majority U.S.-owned affiliates were $36.5 billion in 2012 (latest data available), while sales of services in the United States by majority China-owned firms were $1.7 billion.

Urbanization is one of Premier Li Keqiang's top priorities; it is a mechanism for modernization, a potential engine of future economic growth, and a way to avoid the ''middle income trap.'' Premier Li estimated in a major speech on urbanization that another 300 million Chinese citizens will move to cities over the next 12 years. New cities that are clean, resource efficient and well planned will avoid many millions of tons of greenhouse gas emissions (GHG) emissions. Globally, residential and commercial buildings account for approximately one-quarter of GHG emissions (including electricity consumption). Given China's tremendous need to build and re-develop cities, this area of focus is of great interest to the Chinese government. China's Minister of Science and Technology, Wan Gang has raised ''smart infrastructure for urbanization'' as a top priority for U.S.-China cooperation at nearly every recent opportunity including at the July 2014 Innovation Dialogue, at the U.S.-China Strategic and Economic Dialogue (S&ED) and during his visit to Washington, DC in September 2014.

In 2010, China identified five Chinese provinces, including Guandong Province, and seven Chinese cities to serve as low-carbon pilot programs. Each territory was required to set a GHG reduction target, create a local cap-and-trade program, pursue low-carbon development, and serve as a model for other cities. Sub-national authorities experimented with climate mitigation policies to determine which ones would work best in the Chinese context. The National Development and Reform Commission (NDRC) announced an additional 29 provinces and cities in 2012. China's New Energy City platform involves 100 cities in China that will work toward achieving aggressive renewable energy targets.

Moreover, during the recent Asia Pacific Economic Cooperation (APEC) Leaders' meeting hosted by China in Beijing, Leaders called for the promotion of inclusive and sustainable development, and for cooperation projects that explore new ways of urbanization that are green, low-carbon and people-oriented. In the July 2014 Report of the U.S.-China Climate Change Working Group, the United States and China agreed to ''explore appropriate cooperative efforts sub-nationally among our states, provinces, and cities on climate-related policies and programs'' as a potential area of future cooperation.

Overview of Construction and Green Building (Design, Smart Urbanization, Better Cities)

From 2011 to 2013, the construction market in China grew exponentially, and more modestly in 2014. Demand for construction of energy efficient buildings will increase as China continues to rapidly urbanize. On March 16, 2014, the Chinese government issued the National New-type Urbanization Plan for 2014 to 2020, which aims to lift the proportion of Chinese citizens living in cities from the present 53.7 percent to 60 percent by 2020.

With the urbanization of China expected to continue to grow, green buildings will be relied on to fulfill the demand for new energy efficient buildings. New construction of urban green buildings is expected to rise from 2 percent in 2012 to 50 percent by 2020. From 2010 to 2030, China is expected to increase floor space growth in a range of 15 to 23 billion square meters.

The State Council Green Building Action Plan of 2014 has reaffirmed the importance of the Ministry of Housing and Urban-Rural Development's (MOHURD) green building standards under China's 3-Star Rating System. The Action Plan requires all government-invested projects such as schools, hospitals, museums, science museums, stadiums and affordable housing, as well as any single building area over 20,000 square meters such as airports, railway stations, hotels, restaurants, shopping malls, offices and other large public buildings to meet the MOHURD standards.

The U.S. Government has collaborated with Chinese Ministries to prime municipal markets for U.S. cleantech goods and services. Under the U.S.-China Eco-cities collaboration, the U.S. Department of Energy (DOE) works with seven Chinese cities on planning, best practices and energy efficiency technology deployment. DOE and the China Academy of Building Research helped introduce the first-ever rural building energy code in China, and are exploring new opportunities on efficiency standards. These and similar programs have enabled stronger deal-making connections between U.S. companies and local decision-makers in China, while maintaining supportive relationships with China's central government. These programs have resulted in commercial successes, and clear emissions and energy intensity reductions.

Overview of Energy Efficiency (Smart Grid, Green Data Centers, Certain Engineering Services)

China is the world's largest market for power transmission and distribution, and is the world's leading consumer of smart grid technologies. China is currently constructing a series of ultra-high voltage (UHV) grid and urban-rural distribution grids. This includes the construction of smart grid operation and control systems and the installation of tens of millions of smart meters across the country. China now has nearly 250 million meters installed and is expected to continue to build out and update its metering system through 2017. The total of these investments is expected to grow to nearly $20 billion annually through the end of the decade.

Smart Grid

As part of the Government's efforts to reduce the carbon intensity of its economy, combined with the massive increase in the use of renewable energy, the country will require significant smart-grid technologies to support these endeavors. As such, there are significant opportunities for smart meters, battery storage, communication devices, integrated solutions, and engineering services.

The USG is already cooperating with China in the Smart Grid space through several U.S. Trade and Development Agency programs, as well as through the U.S.-China Climate Change Working Group, the U.S.-China Renewable Energy Partnership (USCREP) and others. These programs can complement the aspect of the mission to further pull the private sector into these initiatives.

Smart Cities

The Smart City represents a new mode of urban development and is a system composed of multiple systems. The key goal is low-carbon urbanization. By leveraging expertise in infrastructure with collaborative business models, companies deliver complete solutions that can help make cities more efficient, livable and sustainable by focusing on five key areas: (1) Energy, (2) transportation, (3) buildings & homes, (4) water, and (5) public services. Smart Cities may implement new energy-efficient technology in any of these key areas: Electric vehicle charging stations are just one example of a greener Smart City. Today, technology is revolutionizing how businesses, consumers and governments decrease their carbon footprint worldwide while increasing productivity through smart homes, smart buildings, smart transportation and smart grids. Globally, smart technologies have the potential to reduce carbon dioxide (CO_2) by as much as 15 percent.

DOE is collaborating with 13 Chinese cities to both reach low-carbon urbanization goals and increase U.S. clean energy technology exports to China. These collaborations focus on the policy development that primes Chinese municipal markets for U.S. technologies. Specifically, DOE provides technical assistance with the development of China's urban sustainability plans and deployment of demonstration projects, which include U.S. companies and products and provide data back that strengthen U.S. modeling capabilities.

Green Data Centers

China is in the midst of an unprecedented data center construction surge that will provide the country with one of the most advanced computing infrastructures in the world. The government has made expanding the national computing infrastructure a part of its latest five-year plan. The Chinese are building numerous large data centers to support the needs of the nation's fast-growing population of Internet users, estimated at around 500 million. New data centers also will help meet the escalating demand for services such as e-commerce, online banking and e-government. The Chinese approach to data centers is to build more and build big. The data center expansion will also provide computing infrastructure for foreign firms looking to expand in China.

Data center site selection is a resource issue. The majority of the data centers in China are located in the cities of Beijing, Shanghai, and Guangzhou, where real estate prices and electricity costs continue to escalate. As a result, the government is now encouraging companies to build data centers in the western Chinese provinces of Xinjiang, Gansu, Qinghai, and Shanxi, where real estate is more affordable and electricity is abundant.

China is in the process of drafting national energy efficiency standards for computer servers used in data centers, under the guidance of the Standardization Administration of China (SAC) and the Ministry of Industry and Information Technology (MIIT).The United States and China are also discussing a green data center pilot project and study to demonstrate energy efficiency technologies and provide recommendations for MIIT on energy efficiency standards for data centers.

Overview of Carbon Capture, Utilization, and Storage

China is the world's largest energy consumer and the leading emitter of greenhouse gases. In 2013, coal accounted for 65 percent of China's overall (*i.e.,* primary) energy consumption. It is the most coal-dependent country among top energy consumers. China's major cities have long endured high levels of air pollution from coal use in the power, industrial, and residential sectors along with emissions from the transport sector. In 2013, 92 percent of Chinese cities failed to meet national ambient air quality standards. While this has not held back construction of new coal-fired plants or factories, many old, inefficient, polluting facilities have been closed. Also, China has an aggressive effort to replace old coal facilities with cleaner, more efficient facilities in both the power and industrial sectors. Coal burning is responsible for a significant share of the of the country's $PM_{2.5}$ (particulate matter less than 2.5 micrometers in diameter) pollution.

China considers CCUS technology an important part of its clean coal technology option in both short and long terms. The International Energy Agency (IEA) forecasts that by 2050, CCUS could become the biggest contributor to CO_2 emissions reduction technology among single technologies. China is emerging as a major influence on CCUS deployment, with several operational and planned demonstration projects. The country has adopted an encouraging policy framework and has increased the support for research and development (R&D) projects. As a pioneer within CCUS, the United States has developed cutting-edge technology through various R&D and demonstration projects. DOE administers a Clean Coal and Carbon Management Program to encourage and support public/private partnerships to research, develop, and demonstrate clean coal technologies, in particular, CCUS, to accelerate large-scale commercial deployment.

The United States and China—through a variety of bilateral and multilateral platforms, including the U.S.-China Fossil Energy Protocol, the U.S.-China Clean Energy Research Center (CERC), the U.S.-China Climate Change Working Group (CCWG), the Carbon Sequestration Leadership Forum (CSLF), and the APEC—are working together to promote the deployment of CCUS. Under the CCWG/CCUS Initiative, the United States and China are working together to accelerate the adoption of CCUS in both countries through joint efforts on large, integrated

CCUS demonstration projects within the next three years. Both sides are exchanging key technical and economic assessments and information on demonstrations, along with their results. This is being achieved in large part through joint counter-facing CCUS demonstration projects in both countries, focusing on CO_2 use in enhanced oil recovery (EOR) and other beneficial uses of CO_2 initially, as well as CO_2 storage in saline formations, wherever possible. These identified projects are essential to proving technological and commercial viability of CCUS, thereby accelerating the creation of markets and widespread deployment. Guangdong Province has been identified as a key target for potential collaboration on a saline storage demonstration project with U.S. company participation. There are also opportunities for Chinese direct investment in U.S. CCUS projects.

Advanced Coal Gasification Technology With CCUS

Integrated gasification combined cycle (IGCC) power generation is a new technology, which has reached commercial status. Two plants, supported in DOE's Clean Coal Technology Program, were built in the 1990's. A new IGCC plant, based on Southern Company's and KBR's Transport Reactor Integrated Gasification (TRIG™) technology for low-rank coals is expected to be operational in 2016. Today's IGCC technology emits equal or more CO_2 than many supercritical and ultra-supercritical (U.S.C.) power plants on a ton of CO_2 emitted per net kilowatt (kW) basis. However, IGCC provides an opportunity to remove CO_2 prior to combustion (*i.e.,* pre-combustion) and to coproduce valuable chemical and liquid transportation fuels. New technology and equipment (*i.e.,* CCUS) to these two problems are good prospects for U.S. companies. Combining coal gasification with carbon capture and storage in the power sector is a critical pathway for both countries towards low-carbon power generation. China has high interest in developing and demonstration new coal co-production systems with CO_2 capture. The United States is leading the world in such technology demonstrations, and has much to offer China.

Carbon Storage

China has significant interest in EOR technology to increase domestic oil production. However, it lacks EOR technology and know-how to deploy CCS in EOR applications, which is generally viewed as the market entry for CCS as it produces a high-value product—crude oil. The United States developed EOR technology over the past 40 years based on extracting, transporting, and injecting CO_2 from natural reservoirs and separation during natural gas production. China also has expressed interest, including cooperation under the CCWG/CCUS Initiative, on long-term storage of CO_2 in saline formations, which also offers an opportunity to produce potable water through enhanced-water recovery (EWR) via reverse osmosis by taking advantage of the pressure from CO_2 injection. These are areas where U.S. companies are leading the world, and have much to offer China.

Overview of Environmental Technologies (Cement Plant Air Pollution Reduction, Power Plant Emissions Reduction, Groundwater Monitoring, Pollution Prevention, and Remediation, Municipal Water and Wastewater Treatment and Plant Development, Process and Produced Water, Water Efficiency and Reuse, Sludge Treatment)

In 2012, China's environmental technologies market was estimated to be worth $27 billion, and is expected to grow exponentially in the coming years, eclipsing the $275 billion U.S. market and becoming the largest global consumer of environmental technologies by 2025. As a global leader in producing and implementing environmental technologies, the U.S. environmental technologies industry is poised to grow dramatically if the United States can successfully position itself as China's primary provider of these technologies and associated services.

U.S. companies also are well positioned to take advantage of immediate opportunities in air pollution monitoring and control; water and wastewater treatment and protection; and waste management.

Cement Plant Air Pollution Reduction

China's rapid economic development has immensely increased cement demand for infrastructure, industrial, commercial, and residential building projects. Limiting the environmental impact of cement production by instituting ''green cement'' technologies has become a priority of the Chinese government. The size of the global cement industry is expected to double by 2030 with most of this increase taking place in China. It is estimated that the Chinese cement industry completed $7.2 billion worth of fixed asset investments in 2007 alone, prompted by factors that include high energy costs and emission reduction mandates.

Power Plant Emissions Reduction

The Chinese power generation sector is heavily reliant on coal. Coal-fired power plants generated about 70 percent of China's electricity in 2011 although coal's share of power generation has been trending downward in recent years. Coal power generation significantly contributes to air quality issues in the region. To address related environmental and human health concerns, the Chinese government initiated the development of air pollution control regulations. The Chinese Government also participated in negotiations of the Minamata Convention on Mercury, a global legally binding instrument to reduce mercury use and emissions. The text of the Minamata Convention was adopted by over 150 countries, including China, in January 2013. Given that coal-fired power plants represent a major source of airborne mercury (and other toxins), the implementation of this instrument will further foster Chinese interest in air pollution control emission control technologies—a technology area where the United States leads the world in commercial deployment.

Groundwater Monitoring, Pollution Prevention, and Remediation

Much of China's groundwater resources have been degraded by pollution limiting their use as a reliable source for drinking water. The Ministry of Land Resources reports that 57 percent of ground water ranks 'bad' or 'very bad' in quality estimates. The National Groundwater Contamination Prevention and Remediation Plan calls for a $5.6-billion investment through 2020. Ground water protection efforts are focused on monitoring, source control, and remediation. The 12th Five-Year Plan delineates the study of pollution assessment, monitoring, and simulation in order to establish a national monitoring system and quality standards. Source control research focuses on hazardous waste storage, landfill contamination, oil and gas extraction, mining, agriculture, and underground piping and disposal systems to establish control techniques and rules. China seeks to address contaminated groundwater by conducting a groundwater pollution remediation pilot study that will inform national approaches to groundwater remediation and lead to subsequent large-scale remediation projects. U.S. Superfund experience in groundwater remediation creates a competitive advantage for U.S. companies.

Municipal Water and Wastewater Treatment and Plant Development

Aggressive construction of water treatment plants continues as China works to improve water quality and enhance access to drinking water and sanitation services. The China Greentech Initiative (CGTI) reports that 40 billion cubic meters of urban water supply capability will be added by 2015. Furthermore, the South-to-North Water Diversion Project mandates the construction of 426 wastewater treatment plants along the eastern route to treat heavily polluted surface waters. Tightening of national regulations will provide retrofit opportunities for existing plants.

Process and Produced Water

New effluent standards and better enforcement thereof are driving growth in produced water treatment, while continued industrial expansion and water reuse targets promote the process water market. Investments in improved effluent management are expected to reach $20 billion by 2015. The State 12th Five-Year Plan targets nine sectors for improved produced water treatment: paper and pulp, raw chemicals, petroleum refining, textiles, dyeing, pharmaceuticals, ferrous metals processing, food processing, and power generation. The China Greentech Initiative has developed a list of top tier client industries using government prioritization, pollution reduction targets, discharge volumes, and treatment profitability measures. They include pharmaceuticals, beverages, paper and pulp, raw chemicals, textiles, agricultural food processing, and coal mining and washing. Second tier industries include ferrous metal processing, petroleum refining, tobacco, food manufacturing, and chemical fibers.

Water Efficiency and Reuse

China's scarce fresh water resources have made water efficiency and reuse a national priority designed to limit further economic disruptions due to water shortages. These priorities will be a boon to membrane, non-revenue water management, and industrial water efficiency technologies. It is estimated that water reuse will lead to 30 percent annual growth over the next five years in the membrane technology market.

Sludge Treatment

China discharges approximately 22–30 million tons of untreated sludge annually, a growing and persistent environmental challenge. Recent government action has led to the development of technology standards for sludge treatment, a requirement that municipalities install sludge treatment systems, and a central government capital development investment of $9.7 billion for sludge treatment facilities. Nonetheless, lack of domestic operational expertise and technology for sludge treatment remains a challenge for China that could provide sludge treatment opportunities for U.S. firms. In February 2011, the NDRC and Ministry of Housing and Urban-Rural Development (MOHURD) issued plans for developing sludge treatment demonstration projects using advanced technologies. U.S. involvement in those demonstrations could enhance down-stream export opportunities. The municipalities of Beijing, Guangdong, Hebei, and Hubei are top prospects, having set 100 percent treatment targets by 2015.

Other Products and Services

The foregoing analysis of the opportunities in China is not exhaustive, but illustrative of the many opportunities available to U.S. businesses. Applications from companies selling products or services within the scope of this mission, but not specifically identified, will be considered and evaluated by the U.S. Department of Commerce and the U.S. Department of Energy. Companies whose products or services do not fit the scope of the mission may contact their local U.S. Export Assistance Center (USEAC) to learn about other business development missions and services that may provide more targeted export opportunities. Companies may call 1–800–872–8723, or go to *http://help.export.gov/* to obtain such information.

Mission Goals

This mission will reaffirm the U.S. commitment to sustained economic partnerships in China. The mission's purpose is to support the business development goals of U.S. firms as they construct a firm foundation for future business in China and specifically aims to:

- Assist in identifying potential partners and strategies for U.S. companies in the target sectors.
- Confirm U.S. Government support for the activities of U.S. businesses in China and to provide access to senior decision makers in the Chinese government.
- Confirm U.S. government support for existing government-to-government and government-to-business collaborations on lowcarbon urbanization work.
- Promote more widespread application and deployment of CCUS in China.
- Listen to the needs, suggestions and experience of individual participants to help shape appropriate U.S. Government positions regarding U.S. business interests in the region.
- Organize private and focused events with local business and association leaders capable of becoming partners and clients of U.S. firms as they develop their business in China.
- Assist development of competitive strategies and market access with high level information gathering from private and public-sector leaders.

Mission Scenario

The mission will stop in Beijing, Shanghai, and Guangzhou with an optional stop in Hong Kong. In Beijing, the capital of China, the schedule will primarily consist of scene setting briefings, and engagements with Chinese officials. In Shanghai and Guangzhou, participants will meet with pre-screened potential agents, distributors, and representatives, as well as other business partners and government officials. The participants will also attend market briefings by U.S. Embassy officials and other industry experts, as well as networking events offering further opportunities to speak with local business and industry decision-makers.

After the conclusion of the mission, delegation members will also have the opportunity to sign-up for an optional add-on stop in Hong Kong. During this optional stop, participants will meet with pre-screened potential agents, distributors, and representatives, as well as other business partners and government officials through the Department of Commerce Gold Key program. The optional stop in Hong Kong will not include Secretary Pritzker or Moniz.

PROPOSED TIME TABLE

Sunday, April 12 and Monday, April 13	Beijing	Business Development Mission Orientation. Welcome Dinner. Industry Briefings/Roundtable Discussions. Government Meetings. Individual Company Business Appointments. Networking Dinner or Reception.
Tuesday, April 14 and Wednesday, April 15	Shanghai	Industry Briefings/Roundtable Discussions. Government Meetings. Individual Company Business Appointments. Networking Dinner or Reception.
Thursday, April 16 and Friday, April 17	Guangzhou	Government Meetings. Individual Company Business Appointments. Networking Dinner or Reception. Wrap-up Session. Closing Dinner.

OPTIONAL ADD-ON STOP FOR MISSION PARTICIPANTS

Monday, April 20	Hong Kong	Market Briefing by U.S. Embassy Officials. Individual Company Business Appointments.

Participation Requirements

All companies interested in participating in the Secretarial Business Development Mission to China must complete and submit an application package for consideration by the Department of Commerce and Department of Energy. All applicants will be evaluated on their ability to meet certain conditions and best satisfy the selection criteria as outlined below. Approximately 20–25 companies will be selected to participate in the mission from the applicant pool. U.S. companies doing business in China, as well as U.S. companies seeking to enter the market for the first time may apply.

Fees and Expenses: After a company has been selected to participate on the mission, a payment to the Department of Commerce in the form of a participation fee is required. The fee schedule for the mission is below:

Beijing, Shanghai and Guangzhou

- $12,500 for large firms
- $10,000 for a small or medium-sized enterprises (SMEs) [1]
- $3,500 additional firm representative (large firm or SME—limit one additional representative per company)

Optional Add-on Stop in Hong Kong (Fee for Gold Key Service per day)

- $2,300 for large firms
- $700 for a small or medium-sized enterprises (SMEs)

[1] An SME is defined as a firm with 500 or fewer employees or that otherwise qualifies as a small business under SBA regulations. Parent companies, affiliates, and subsidiaries will be considered when determining business size. The dual pricing reflects the Commercial Service's user fee schedule that became effective May 1, 2008.

Participants selected for the trade mission will be expected to pay for the cost of all personal expenses, including, but not limited to, air travel, lodging, meals, communication, incidentals, unless otherwise noted. In the event that the mission is cancelled, no personal expenses paid in anticipation of a trade mission will be reimbursed. However, participation fees for a cancelled trade mission will be reimbursed to the extent they have not already been expended in anticipation of the mission.

Business or entry visas may be required. Government fees and processing expenses to obtain such visas are not included in the participation fee. However, the U.S. Department of Commerce will provide instructions to each participant on the procedures required to obtain necessary business visas.

Conditions of Participation: An applicant must sign and submit a completed application and supplemental application materials, including adequate information on the company's products and/or services, primary market objectives, and goals for participation. If an incomplete application form is submitted or the information and material submitted does not demonstrate how the applicant satisfies the participation criteria, the Department of Commerce or the Department of Energy may reject the application, request additional information, or take the lack of information into account when evaluating the application.

Each applicant must also:

- Identify whether the products and services it seeks to export through the mission are either produced in the United States, or, if not, marketed under the name of a U.S. firm and have at least 51 percent U.S. content. In cases where the U.S. content does not exceed 50 percent, especially where the applicant intends to pursue investment in major project opportunities, the following factors, may be considered in determining whether the applicant's participation in the Business Development Mission is in the U.S. national interest:
  - U.S. materials and equipment content;
  - U.S. labor content;
  - Contribution to the U.S. technology base, including conduct of research and development in the United States;
  - Repatriation of profits to the U.S. economy;
  - Potential for follow-on business that would benefit the U.S. economy;
- Certify that the export of the products and services that it wishes to export through the mission would be in compliance with U.S. export controls and regulations;
- Certify that it has identified to the Department of Commerce any business matter pending before any bureau or office in the Departments of Commerce or Energy;
- Certify that it has identified any pending litigation (including any administrative proceedings) to which it is a party that involves the Departments of Commerce or Energy; and
- Certify that it and its affiliates (1) have not and will not engage in the bribery of foreign officials in connection with a company's/participant's involvement in this mission, and (2) maintain and enforce a policy that prohibits the bribery of foreign officials.

Selection Criteria for Participation: Selection will be based on the following

criteria, listed in decreasing order of importance:

- Suitability of the company's products or services to the Chinese Market in the targeted industry sectors and the likelihood of a participating company's increased exports or business interests in China as a result of this mission;
- Potential of the company's product or service to significantly impact the energy, water, waste, emissions, and/or pollution in Chinese cities.
- Consistency of the company's products or services with the scope and desired outcome of the mission's goals;
- Rank/seniority of the designated company representative;
- Current or pending major project participation; and
- Demonstrated export experience to China and/or other foreign markets.

The balance of entities participating in the mission with respect to type, size, location, sector or subsector may also be considered during the review process.

Referrals from political organizations and any information, including on the application, containing references to political contributions or other partisan political activities will be excluded from the application and will not be considered during the selection process. The sender will be notified of these exclusions.

Timeframe for Recruitment and Applications

Mission recruitment will be conducted in an open and public manner, including publication in the **Federal Register** (*http://www.gpoaccess.gov/fr*), posting on ITA's business development mission calendar (*http://export.gov/trademissions*) and other Internet Web sites, press releases to general and trade media, direct mail, broadcast fax, notices by industry trade associations and other multiplier groups, and publicity at industry meetings, symposia, conferences, and trade shows.

Recruitment will begin immediately and conclude no later than January 23, 2015. Applications can be completed on-line and are available on the China Smart Cites/Smart Growth Mission Web site at *http://www.export.gov/ChinaMission2015* or can be obtained by contacting the U.S. Department of Commerce Office of Business Liaison (202–482–1360 or *BusinessLiaison@doc.gov*).

The application deadline is Friday, January 23, 2015. Completed applications should be submitted to the Office of Business Liaison. Applications received after the January 23rd deadline, will be considered only if space and scheduling constraints permit. The Department of Commerce will evaluate all applications and inform applicants of selection decisions by February 6, 2015.

How To Apply: Applications can be downloaded from the business development mission Web site (*http://www.export.gov/ChinaMission2015*) or can be obtained by contacting the Office of Business Liaison (see below).

Contacts: General Information and Applications: The Office of Business Liaison, 1401 Constitution Avenue NW., Room 5062, Washington, DC 20230, Tel: 202–482–1360, Fax: 202–482–4054, Email: *BusinessLiaison@doc.gov.*

Elnora Moye,

Trade Program Assistant.

[FR Doc. 2014–29015 Filed 12–10–14; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

International Trade Administration

Advisory Committee on Supply Chain Competitiveness; Notice of Public Meetings

AGENCY: International Trade Administration, U.S. Department of Commerce.

ACTION: Notice of open meetings.

SUMMARY: This notice sets forth the schedule and proposed topics of discussion for public meetings of the Advisory Committee on Supply Chain Competitiveness (Committee).

DATES: The meetings will be held on January 14 from 12:00 p.m. to 3:00 p.m., and January 15 from 9:00 a.m. to 4:00 p.m., Eastern Standard Time (EST).

ADDRESSES: The meeting on January 14 will be held at the U.S. Department of Commerce, 1401 Constitution Avenue NW., Room 1412, Washington, DC 20230. The meeting on January 15 will be held at the U.S. Department of Commerce, 1401 Constitution Avenue NW., Room 4830, Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Richard Boll, Office of Supply Chain, Professional & Business Services, International Trade Administration. (Phone: (202) 482–1135 or Email: *richard.boll@trade.gov*).

SUPPLEMENTARY INFORMATION:

Background: The Committee was established under the discretionary authority of the Secretary of Commerce and in accordance with the Federal Advisory Committee Act (5 U.S.C. App. 2). It provides advice to the Secretary of Commerce on the necessary elements of a comprehensive policy approach to supply chain competitiveness designed to support U.S. export growth and national economic competitiveness, encourage innovation, facilitate the movement of goods, and improve the competitiveness of U.S. supply chains for goods and services in the domestic and global economy; and provides advice to the Secretary on regulatory policies and programs and investment priorities that affect the competitiveness of U.S. supply chains. For more information about the Committee visit: *http://trade.gov/td/services/oscpb/supplychain/acscc/.*

Matters To Be Considered: Committee members are expected to continue to discuss the major competitiveness-related topics raised at the previous Committee meetings, including trade and competitiveness; freight movement and policy; information technology and data requirements; regulatory issues; and finance and infrastructure. The Committee's subcommittees will report on the status of their work regarding these topics. The agendas may change to accommodate Committee business. The Office of Supply Chain, Professional & Business Services will post the final detailed agendas on its Web site, *http://trade.gov/td/services/oscpb/supplychain/acscc/*, at least one week prior to the meeting.

The meetings will be open to the public and press on a first-come, first-served basis. Space is limited. The public meetings are physically accessible to people with disabilities. Individuals requiring accommodations, such as sign language interpretation or other ancillary aids, are asked to notify Mr. Richard Boll, at (202) 482–1135 or *richard.boll@trade.gov* five (5) business days before the meeting.

Interested parties are invited to submit written comments to the Committee at any time before and after the meeting. Parties wishing to submit written comments for consideration by the Committee in advance of this meeting must send them to the Office of Supply Chain, Professional & Business Services, 1401 Constitution Ave. NW., Room 11014, Washington, DC, 20230, or email to *richard.boll@trade.gov.*

For consideration during the meetings, and to ensure transmission to the Committee prior to the meetings, comments must be received no later than 5:00 p.m. EST on January 7, 2015. Comments received after January 7, 2015, will be distributed to the Committee, but may not be considered at the meetings. The minutes of the meetings will be posted on the Committee Web site within 60 days of the meeting.

Dated: December 8, 2014.

David Long,

Director, Office of Supply Chain, Professional & Business Services.

[FR Doc. 2014–29132 Filed 12–10–14; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Notice of Scope Rulings

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

DATES: *Effective Date:* December 11, 2014.

SUMMARY: The Department of Commerce (''Department'') hereby publishes a list of scope rulings and anticircumvention determinations made between July 1, 2014, and September 30, 2014, inclusive. We intend to publish future lists after the close of the next calendar quarter.

FOR FURTHER INFORMATION CONTACT: Brenda E. Waters, AD/CVD Operations, Customs Liaison Unit, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: 202–482–4735.

SUPPLEMENTARY INFORMATION:

Background

The Department's regulations provide that the Secretary will publish in the **Federal Register** a list of scope rulings on a quarterly basis.[1] Our most recent notification of scope rulings was published on August 12, 2014.[2] This current notice covers all scope rulings and anticircumvention determinations made by Enforcement and Compliance between July 1, 2014, and September 30, 2014, inclusive. Subsequent lists will follow after the close of each calendar quarter.

Scope Rulings Made Between July 1, 2014 and September 30, 2014: Japan.

A–588–850: Large Diameter Carbon and Alloy Seamless Standard, Line, and Pressure Pipe from Japan

Requestor: U.S. Metals, Inc. (USM); USM's American Society for Testing and Materials (ASTM) A–335 ferritic alloy steel pipe (specifically, Grades P5, P9, and P11) which USM imports is not within the scope of the antidumping duty order because USM demonstrated that its pipe meets the exclusion under the scope of the order for ASTM A–335; July 24, 2014.

People's Republic of China

A–570–967 and C–570–968: Aluminum Extrusions from the People's Republic of China

Requestor: Titan Worldwide Industries Acquisition LLC (''Titan''); Titan's three types of scaffolding planks (Aluminum Stages, Aluminum Planks with Plywood Top, and Aluminum Scaffold Boards) are outside the scope of the orders because the scaffolding plank products in question are comprised of aluminum extrusions and non-extruded and/or non-aluminum components and enter as fully-assembled finished goods that are permanently assembled, completed, and are ready to use in a scaffolding system with no further modification subsequent to importation. As such, these products are fully assembled subassemblies ready for immediate installation and use in a larger system; July 8, 2014.

A–570–967 and C–570–968: Aluminum Extrusions from the People's Republic of China

Requestor: Signature Partners Inc. (''Signature''); Signature's auto trim kit, consisting of aluminum extrusions and non-aluminum extrusion components, is within the scope of the orders because the product does not enter the United States with all components necessary to complete the final automotive trim kit that is delivered to Signature's customer; July 17, 2014.

A–570–967 and C–570–968: Aluminum Extrusions from the People's Republic of China

Requestor: Dynasty Profiles, LLC (''Dynasty''); Dynasty's aluminum fence systems (specifically, Dynasty's Pool Enclosure Fence System, Fence System for Single Family Home, Fence System for Perimeter Wall, Front Yard Fence System, Corner Fence System, and Entry Gate System) are within the scope of the orders because the information provided by Dynasty was not substantial enough to overcome the weight of the evidence regarding the clear business pattern of the fence industry that the Department has seen in prior scope rulings. The Department found that the logistical and economic considerations of shipping aluminum extrusion fence components to the United States causes similar parts to be combined in bulk, and then be reprocessed or repackaged in the United States, and that Dynasty has not established that its aluminum fence systems differ from this industry pattern; July 22, 2014.

A–570–967 and C–570–968: Aluminum Extrusions from the People's Republic of China

Requestor: Five Lakes Trading, Inc. (''Five Lakes''); Five Lakes' pocket door track, which is extruded from alloy series 6063 aluminum and is cut-to-length and punched, is within the scope of the orders because it meets the description of merchandise subject to the orders; July 22, 2014.

A–570–967 and C–570–968: Aluminum Extrusions from the People's Republic of China

Requestor: SPX Cooling Technologies, Inc. (''SPX''); SPX's fan blade assemblies, which are composed of extruded aluminum fan blades, polypropylene end caps, a carbon steel shank, carbon steel counter weights, and steel blade hardware, are not within the scope of the orders because they are fully and permanently assembled at the time of entry and require no further finishing or fabrication prior to their use. Thus, the Department determined that the fan blade assemblies meet the exclusion criteria for subassemblies that are finished goods; July 25, 2014.

A–570–967 and C–570–968: Aluminum Extrusions from the People's Republic of China

Requestor: Larson Manufacturing Company (''Larson''); Larson's storm door accessory kits, which are comprised of a door handle assembly kit and a door expander/sweeper, are outside the scope of the orders. The Department first found that the first part of the storm door accessory kit, the door handle assembly kit, is not comprised of aluminum extrusions and, therefore, would not fall within the scope of the order. With respect to the door expander/sweeper, the Department found that this part contains more than just extruded aluminum components beyond fasteners and contains parts that are fully and permanently assembled and completed at the time of entry and ready to be installed on a storm door and, thus, meet the exclusion criteria for subassemblies that enter the United States as ''finished goods.'' Therefore, the Department determined that the storm door accessory kit as whole is a packaged combination of parts that contains, at the time of importation, all of the necessary parts to fully assemble a final finished good and requires no further finishing or fabrication, such as cutting or punching, and is assembled ''as is'' into a finished product. Thus, the storm door accessory kit meets the exclusion for a finished goods kit; August 1, 2014.

[1] *See* 19 CFR 351.225(o).

[2] *See Notice of Scope Rulings,* 79 FR 47093 (August 12, 2014).

A–570–967 and C–570–968: Aluminum Extrusions from the People's Republic of China

Requestor: TACO Metals Inc. (''TACO''); TACO's universal backrest kits (consisting of: (i) two vertical support arms made of extruded and anodized 6 series aluminum and injection molded plastic sleeves; and (ii) one horizontal backrest made of PVC board backing, a soft urethane foam cushion, marine grade vinyl fabric; and (iii) hardware made of stainless steel) and universal T-Top kits (consisting of: (i) 2 side frames, a top frame, and a cross bar, each made of 6 series anodized extruded aluminum tubes, cast aluminum bar joints, cast aluminum plate bases, and nylon sleeves and caps; and (ii) hardware made of stainless steel) are outside the scope of the orders because both products enter the United States with all parts needed to assemble a final finished product; August 1, 2014.

A–570–967 and C–570–968: Aluminum Extrusions from the People's Republic of China

Requestor: Whirlpool Corporation (''Whirlpool''); Whirlpool's kitchen appliance door handles with plastic end caps consisting of alloy 6 series aluminum extrusions are within the scope of the orders. The non-aluminum components consist of plastic end caps that are attached by metal screws to the handle and the surface of the kitchen appliance door. The handles are ready for attachment to the refrigerator door upon importation. The Department determined that the kitchen handles at issue were comprised entirely of extruded aluminum and fasteners and, thus, fall inside the language of the scope that includes ''aluminum extrusions which are shapes and forms, produced by an extrusion process.'' The Department further noted that, ''an imported product will not be considered a 'finished goods kit' and, therefore, excluded from the scope of the investigation merely by including fasteners such as screws, bolts, etc. in the packaging with an aluminum extrusion product.'' On this basis, the Department found the handles at issue to be inside the scope of the orders; August 4, 2014

A–570–967 and C–570–968: Aluminum Extrusions from the People's Republic of China

Requestor: Whirlpool Corporation (''Whirlpool''); Whirlpool's kitchen appliance door handles without plastic end caps consisting of alloy 6 series aluminum extrusions are within the scope of the orders. The handles are ready for attachment to the refrigerator door upon importation. The Department determined that the kitchen handles at issue were comprised entirely of extruded aluminum and fasteners and, thus, fall inside the language of the scope that includes ''aluminum extrusions which are shapes and forms, produced by an extrusion process;'' August 4, 2014.

A–570–967 and C–570–968: Aluminum Extrusions from the People's Republic of China

Requestor: Rheetech Sales & Services Inc. (''Rheetech''); Rheetech's aluminum frames for screen printing, with the mesh screen attached, are outside the scope of the orders because they are permanently assembled, completed, and ready for use at the time of entry and contain more than just aluminum extrusion components and fasteners. Thus, the Department determined that Rheetech's aluminum frames for screen printing, with the mesh screen attached, meet the exclusion criteria for subassemblies that are finished goods; August 7, 2014.

A–570–967 and C–570–968: Aluminum Extrusions from the People's Republic of China

Requestor: Districargo Inc. (''Districargo''); Districargo's exhibition booth kits, which are composed of an ''upright aluminum extrusion'' or pole, extruded aluminum beams, and various iron buckles that are used to connect the extruded aluminum pieces together are within the scope of the orders because the imported product is comprised of extruded aluminum products with a series designation commencing with the number 6, save for iron buckles that are used to connect the various extruded aluminum parts. The Department based its finding on the language in the scope of the order which states that, ''an imported product will not be considered a 'finished goods kit' and, therefore, excluded from the scope of the investigation merely by including fasteners such as screws, bolts, etc. in the packaging with an aluminum extrusion product;'' August 14, 2014.

A–570–967 and C–570–968: Aluminum Extrusions from the People's Republic of China

Requestor: TACO Metals Inc. (''TACO''); TACO's poles, rod holders, and rod racks are outside the scope of the orders. TACO's poles, rod holders, and rod racks consist of parts that are fully and permanently assembled and completed at the time of entry, and are ready for installation in a downstream product with no further finishing or fabrication and, therefore meet the exclusion criteria for ''finished goods.'' Additionally, TACO's weld-on rod holders contain, at the time of importation, all of the necessary parts to fully assemble a final finished good and require no further finishing or fabrication, such as cutting or punching, and are assembled ''as is'' into a finished product and, therefore, meet the exclusion criteria for ''finished goods kits; '' August 18, 2014.

A–570–967 and C–570–968: Aluminum Extrusions from the People's Republic of China

Requestor: Vico Plastics Inc. (''Vico''); Vico's cam-lock support poles, which are composed of three aluminum extrusion poles, along with a variety of fasteners (such as screws and locknuts) and non-extruded parts (such as stainless steel springs, a nylon cam lever, rubber crutch tips, and die-cast aluminum collars, and some models come with a plastic swivel base and ball), are outside the scope of the orders because they are finished goods containing aluminum extrusions as parts that are fully and permanently assembled and completed at the time of entry; September 12, 2014.

A–570–899: Certain Artist Canvas from the People's Republic of China

Requestor: Jiangsu Animal By-Products Import & Export Group Corp. (''JABP''); JABP's artist canvases are outside the scope of the order because the weaving and priming of the canvases, which impart the artist canvases' essential characteristics, are performed in India and not the People's Republic of China; July 23, 2014.

A–570–932: Certain Steel Threaded Rod from the People's Republic of China

Requestor: Colonial Elegance Inc.; Baluster Fasteners with a driver, and Newel Fasteners are included within the scope of the antidumping duty order because each of these products match the physical description of subject merchandise found in the order; August 1, 2014.

A–570–983 and C–570–984: Drawn Stainless Steel Sinks from the People's Republic of China

Requestor: Speakman Company (''Speakman''); Speakman's industrial bowls (that are used in Speakman's Safety Products such as Speakman eyewashes, Speakman eye/face washes, and Speakman's combination units or decontamination stations that include a shower and eyewash) are outside the scope of the orders because Speakman's

industrial bowls have different ultimate purchasers, a different ultimate use, different channels of trade, and different manners in which the products are advertised or displayed than subject merchandise; July 24, 2014.

A–570–977 and C–570–978: High Pressure Steel Cylinders from the People's Republic of China

Requestor: Lenz Sales and Dist., Inc.; Lenz's certain filled cylinders with pressurized refrigerants are outside the scope of the order because Lenz's cylinders are marked with DOT 39. The plain language of scope of the antidumping and countervailing duty orders on high pressure steel cylinders from the People's Republic of China states that merchandise impressed with certain specified DOT type markings is covered by the scope; however, a DOT 39 marking is not among the DOT markings specified in the scope; September 12, 2014.

A–570–504: Petroleum Wax Candles from the People's Republic of China

Requestor: Hallmark Cards, Inc.; The Tinker Bell candle, taken in its entirety, includes wings and a purple rock base adorned with pink and yellow lilies such that it does not fit the figurine exclusion language as a human and is therefore within the scope of the order; July 23, 2014.

Interested parties are invited to comment on the completeness of this list of completed scope and anticircumvention inquiries. Any comments should be submitted to the Deputy Assistant Secretary for AD/CVD Operations, Enforcement and Compliance, International Trade Administration, 14th Street and Constitution Avenue NW., APO/Dockets Unit, Room 1870, Washington, DC 20230.

This notice is published in accordance with 19 CFR 351.225(o).

Dated: December 2, 2014.

Christian Marsh,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2014–29130 Filed 12–10–14; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XD604

Magnuson-Stevens Act Provisions; General Provisions for Domestic Fisheries; Paralytic Shellfish Poisoning Closed Areas Expiring

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

ACTION: Notice; reopening of paralytic shellfish poisoning closed areas.

SUMMARY: Based on request from the U.S. Food and Drug Administration, NMFS is not going to renew the paralytic shellfish poisoning closed areas referred to as the Northern and Southern Temporary Paralytic Shellfish Poisoning Closed Areas for another year. The areas have not been subject to a toxic algal bloom for several years, and recent testing of gastropods and whole/roe-on scallops has demonstrated toxin levels well below those known to cause human illness.

DATES: The Northern and Southern Temporary Paralytic Shellfish Poisoning Closures will expire on December 31, 2014.

FOR FURTHER INFORMATION CONTACT: Jason Berthiaume, Fishery Management Specialist, (978) 281–9177.

SUPPLEMENTARY INFORMATION:

Background

On June 10, 2005, the U.S. Food and Drug Administration (FDA) requested that NMFS close an area of Federal waters off the coasts of New Hampshire and Massachusetts (50 CFR 648.14(a)(10)(iii) and (iv)) for bivalve harvesting due to the presence of toxins that cause Paralytic Shellfish Poisoning (PSP). These toxins can accumulate in filter-feeding shellfish, and consumption of contaminated shellfish can cause illness or death.

These closures were first implemented in 2005 (70 FR 35047) and were subsequently modified a number of times from 2005–2008, with the remaining closure subsequently extended from 2008 until 2013. Beginning in 2014, the closures also included a prohibition on the harvest of gastropods (78 FR 78783). Also in 2014, the Northern closure was lifted for bivalve harvesting with the exception of whole/roe on scallops (79 FR 59150), leaving the area closed to gastropod and whole/roe-on scallop harvesting through December 31, 2014, unless otherwise continued.

Recently, NMFS, the FDA, the Massachusetts Division of Marine Fisheries (DMF) and the fishing industry investigated whether the closures are still warranted. The fishing industry collected gastropod and scallop samples from the areas during the summer of 2014. The FDA conducted laboratory testing of the samples collected, which demonstrated toxin levels well below those known to cause human illness. As a result, on October 8, 2014, the FDA sent NMFS a letter requesting that we not renew the Northern and Southern Temporary PSP Closures for 2015. NMFS has been renewing these closures annually under emergency authority at the request of the FDA. The current closures are set to expire on December 31, 2014, and because the FDA has requested we not renew the closures, they will expire at the end of December, resulting in the areas being open beginning January 1, 2015.

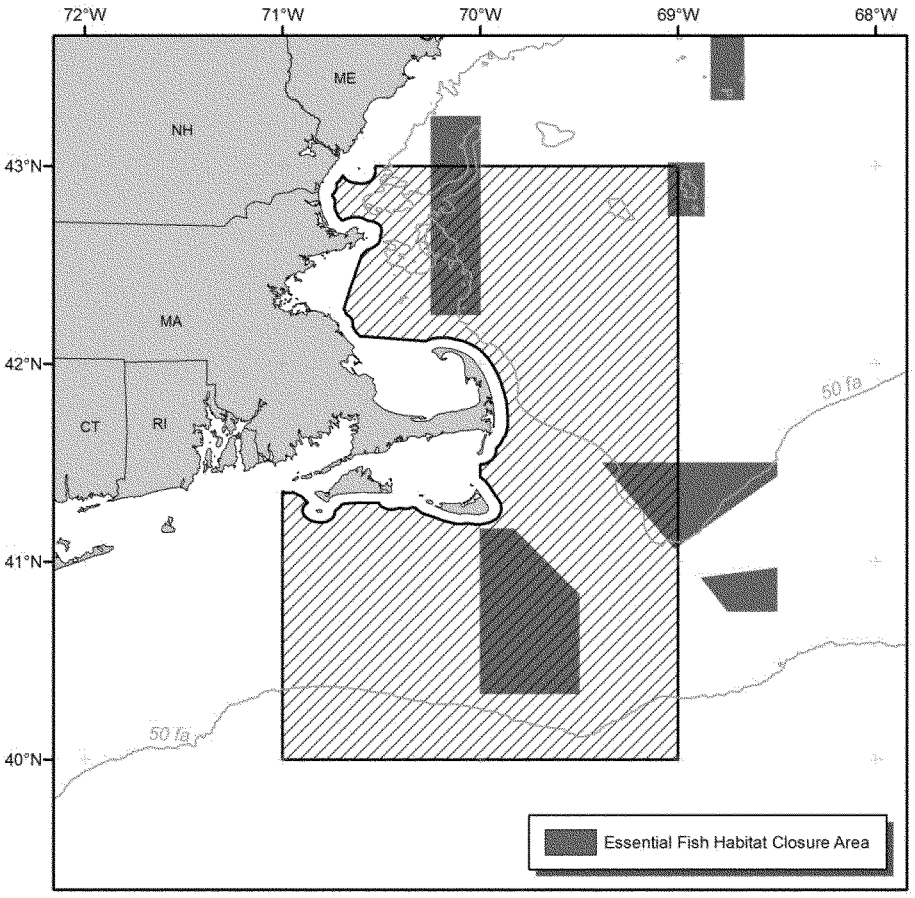
This notice is to inform the public that the areas referred to as the Northern and Temporary PSP Closed Areas will be reopened beginning January 1, 2015 for gastropod and whole/roe-on scallop harvesting. This includes the fisheries for whelk, conch, snails and whole or roe-on scallop harvesting. Scallop harvesting of the abductor muscle is already permitted in the area, and is not affected by this reopening. Given that the Northern closure was recently lifted for other bivalves, this will remove these closures in their entirety.

The FDA has an agreement with the Commonwealth of Massachusetts to conduct PSP monitoring of bivalves from the area in accordance with currently accepted PSP testing procedures. The bivalve testing will serve as an indicator for all molluscan shellfish and gastropods. DMF is testing the reopened waters, and if the results yield samples that exceed the threshold for public safety, DMF will inform us to that effect, and we would work with the FDA to reinstate the closure, as necessary.

The areas defined at 50 CFR 648.81(h)(1)(i), (iv), and (vi) referred to as the Western Gulf of Maine Habitat Closure Area, Closed Area I-North Habitat Closure Area, and Nantucket Lightship Habitat Closed Area respectively, overlap with the area that would be reopened. These overlapping closures areas remain closed to bottom tending mobile gear including scallop dredge gear, otter trawls, hydraulic clam dredge gear and any other bottom tending mobile gear types.

BILLING CODE 3510–22–P

Image 1 – Northern and southern area reopened to whole/roe-on scallop and gastropod harvesting beginning January 1, 2015.



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This notification does not impose any legal obligations, requirements, or expectation.

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

Dated: December 4, 2014.

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

[FR Doc. 2014–29122 Filed 12–10–14; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XD532

Atlantic Highly Migratory Species; Advisory Panel for Atlantic Highly Migratory Species Southeast Data, Assessment, and Review Workshops

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

ACTION: Notice; nominations for Advisory Panel, updated Terms of Reference for SEDAR Pool.

SUMMARY: NMFS solicits nominations for the Advisory Panel (AP) for Atlantic Highly Migratory Species (HMS) Southeast Data, Assessment, and Review (SEDAR) Workshops (this AP is also called the ''SEDAR Pool''). We also notify the public of updates to the Terms of Reference for the SEDAR Pool, including changes to the length of time selectees may serve. The SEDAR Pool is comprised of a group of individuals whom may be selected to consider data and advise NMFS regarding the scientific information, including but not limited to data and models, used in stock assessments for oceanic sharks in the Atlantic Ocean, Gulf of Mexico, and Caribbean Sea. Nominations are being sought for a 5-year appointment (2015–2020). Individuals with definable interests in the recreational and commercial fishing and related industries, environmental community, academia, and non-governmental organizations will be considered for membership on the SEDAR Pool.

DATES: Nominations must be received on or before January 12, 2015.

ADDRESSES: You may submit nominations and request the SEDAR Pool Statement of Organization, Practices, and Procedures by any of the following methods:

- *Email: SEDAR.pool@noaa.gov.*
- *Mail:* Karyl Brewster-Geisz, Highly Migratory Species Management Division, NMFS, 1315 East-West Highway, Silver Spring, MD 20910. Include on the envelope the following identifier: ''SEDAR Pool Nomination.''
- *Fax:* 301–713–1917.

Additional information on SEDAR and the SEDAR guidelines can be found at *http://www.sefsc.noaa.gov/sedar/.* The terms of reference for the SEDAR Pool, along with a list of current members, can be found at *http://www.nmfs.noaa.gov/sfa/hms/SEDAR/SEDAR.htm.*

FOR FURTHER INFORMATION CONTACT: Delisse Ortiz or Karyl Brewster-Geisz, (301) 425–8503.

SUPPLEMENTARY INFORMATION:

Introduction

Section 302(g)(2) of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), 16 U.S.C. 1801 *et seq.,* states that each Council shall establish such advisory panels as are necessary or appropriate to assist it in carrying out its functions under the Act. For the purposes of this section, NMFS applies the above Council provision to the HMS Management Division (See Section 303(g)(1) of the Magnuson-Stevens Act, which provides that the Secretary will prepare fishery management plans for HMS and consult with Advisory Panels under section 302(g) for such FMPs). As such, NMFS has established the SEDAR Pool under this section. The SEDAR Pool currently consists of 33 individuals who can be selected to review data and advise NMFS regarding the scientific information, including but not limited to data and models, used in stock assessments for oceanic sharks in the Atlantic Ocean, Gulf of Mexico, and Caribbean Sea. While the SEDAR Pool was created specifically for Atlantic oceanic sharks, it may be expanded to include other HMS, as needed.

The primary purpose of the individuals in the SEDAR Pool is to review, at SEDAR workshops, the scientific information (including but not limited to data and models) used in stock assessments that are used to advise NMFS, as a delegate to the Secretary of Commerce (Secretary), about the conservation and management of the Atlantic HMS, specifically but not limited to, Atlantic sharks. Individuals in the SEDAR Pool, if selected, may participate in the various data, assessment, and review workshops during the SEDAR process of any HMS stock assessment. In order to ensure that the peer review is unbiased, individuals who participated in a data and/or assessment workshop for a particular stock assessment will not be allowed to serve as reviewers for the same stock assessment. However, these individuals may be asked to attend the review workshop to answer specific questions from the reviewers concerning the data and/or assessment workshops. Members of the SEDAR Pool may serve as members of other APs concurrent with, or following, their service on the SEDAR Pool.

Procedures and Guidelines

A. Terms of Reference

NMFS is updating the Terms of Reference for the SEDAR Pool, which were first established in 2010 with the formation of this advisory panel. The updated Terms of Reference allow invited SEDAR Pool members to send a designee to represent them and participate in the activities of the workshop, after following specified procedures, including written notice to the Chief of the HMS Management Division. The updated Terms of Reference also extend member tenure from 3 to 5 years, to allow continued participation by interested parties. The Terms of Reference are available at *http://www.nmfs.noaa.gov/sfa/hms/advisory_panels/sedar_ap/sedar_hms_ap_terms_of_reference.pdf.*

B. Participants

The SEDAR Pool is comprised of individuals representing the commercial and recreational fishing communities for Atlantic sharks, the environmental community active in the conservation and management of Atlantic sharks, and the academic community that have relevant expertise either with sharks or shark-like species and/or stock assessment methodologies for marine fish species. Members of the SEDAR Pool must have demonstrated experience in the fisheries, related industries, research, teaching, writing, conservation, or management of marine organisms. The distribution of representation among the interested parties is not defined or limited.

Additional members of the SEDAR Pool may also include representatives from each of the five Atlantic Regional Fishery Management Councils, each of the 18 states, both the U.S. Virgin Islands and Puerto Rico, and each of the interstate commissions: The Atlantic States Marine Fisheries Commission and the Gulf States Marine Fisheries Commission.

If NMFS requires additional members to ensure a diverse pool of individuals for data or assessment workshops, NMFS may request individuals to become members of the SEDAR Pool outside of the annual nomination period.

Panel members serve at the discretion of the Secretary. Not all members will attend each SEDAR workshop. Rather, NMFS will invite certain members to participate at specific stock assessment workshops dependent on their ability to participate, discuss, and recommend scientific decisions regarding the species being assessed. If an invited SEDAR Pool member is unable to attend the workshop, the member may send a designee who may represent them and participate in the activities of the workshop. In order to ensure the designee meets the requirements of participating in the data and/or assessment workshop, the designee must receive written approval of the HMS Management Division Chief at least two weeks in advance of the beginning of the relevant data and/or assessment workshop. Written notification must include the name, address, telephone, email, and position of the individual designated. A designee may not name another designee.

NMFS is not obligated to fulfill any requests (*e.g.,* requests for an assessment of a certain species) that may be made by the SEDAR Pool or its individual members. Members of the SEDAR Pool who are invited to attend stock assessment workshops will not be compensated for their services but may be reimbursed for their travel-related expenses to attend such workshops.

C. Nomination Procedures for Appointments to the SEDAR Pool

Member tenure will be for 5 years. Nominations are sought for terms beginning early in 2015 and expiring in 2020. Nomination packages should include:

1. The name, address, phone number, and email of the applicant or nominee;
2. A description of his/her interest in Atlantic shark stock assessments or the Atlantic shark fishery;
3. A statement of background and/or qualifications; and
4. A written commitment that the applicant or nominee shall participate actively and in good faith in the tasks of the SEDAR Pool, as requested.

D. Meeting Schedule

Individual members of the SEDAR Pool meet to participate in stock assessments at the discretion of the

Office of Sustainable Fisheries, NMFS. Stock assessment timing, frequency, and relevant species will vary depending on the needs determined by NMFS and SEDAR staff. Currently, other than meetings needed to complete the ongoing smoothhound shark stock assessment, NMFS does not anticipate holding any stock assessment meetings for other Atlantic shark species in 2015. In 2016, NMFS anticipates starting a stock assessment on Atlantic blacktip sharks. During an assessment year, meetings and meeting logistics will be determined according to the SEDAR Guidelines. All meetings are open for observation by the public.

Dated: December 8, 2014.

Emily H. Menashes,

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

[FR Doc. 2014–29045 Filed 12–10–14; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2014–ICCD–0159]

Agency Information Collection Activities; Comment Request; Comprehensive Transition Programs for Students With Intellectual Disabilities Expenditure Report

AGENCY: Federal Student Aid (FSA), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 3501 *et seq.*), ED is proposing an extension of an existing information collection.

DATES: Interested persons are invited to submit comments on or before February 9, 2015

ADDRESSES: Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting Docket ID number ED–2014–ICCD–0159 or via postal mail, commercial delivery, or hand delivery. If the regulations.gov site is not available to the public for any reason, ED will temporarily accept comments at *ICDocketMgr@ed.gov. Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted; ED will ONLY accept comments during the comment period in this mailbox when the regulations.gov site is not available.* Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Information Collection Clearance Division, U.S. Department of Education, 400 Maryland Avenue SW, LBJ, Mailstop L–OM–2–2E319, Room 2E103, Washington, DC 20202.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Tammy Gay, 816–268–0432.

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: Comprehensive Transition Programs for Students with Intellectual Disabilities Expenditure Report.

OMB Control Number: 1845–0113.

Type of Review: An extension of an existing information collection.

Respondents/Affected Public: Private Sector, State, Local and Tribal Governments.

Total Estimated Number of Annual Responses: 34.

Total Estimated Number of Annual Burden Hours: 68.

Abstract: The Higher Education Opportunity Act, Public Law 110–315, added provisions for the Higher Education Act of 1965, as amended, in section 750 and 766 that enable eligible students with intellectual disabilities to receive Federal Pell Grant, Federal Supplemental Educational Opportunity Grant, and Federal Work Study funds if they are enrolled in an approved program. The Comprehensive Transition Programs (CTP) for Students with Intellectual Disabilities expenditure report is the tool for reporting the use of these specific funds. The data will be used by the Department to monitor program effectiveness and accountability of fund expenditures. The data is used in conjunction with institutional program reviews to assess the administrative capability and compliance of the applicant.

Dated: December 8, 2014.

Kate Mullan,

Acting Director, Information Collection Clearance Division, Privacy, Information and Records Management Services, Office of Management.

[FR Doc. 2014–29044 Filed 12–10–14; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Applications for New Awards; Training and Information for Parents of Children with Disabilities—Parent Training and Information Centers

AGENCY: Office of Special Education and Rehabilitative Services, Department of Education.

ACTION: Notice.

Overview Information: Training and Information for Parents of Children with Disabilities—Parent Training and Information Centers Notice inviting applications for new awards for fiscal year (FY) 2015.

Catalog of Federal Domestic Assistance (CFDA) Number: 84.328M.

Dates:

Applications Available: December 11, 2014.

Deadline for Transmittal of Applications: February 9, 2015.

Deadline for Intergovernmental Review: April 10, 2015.

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Program: The purpose of this program is to ensure that parents of children with disabilities receive training and information to help improve results for their children.

Priority: This competition has one absolute priority. In accordance with 34 CFR 75.105(b)(2)(iv) and (v), this priority is from allowable activities specified in the statute, or otherwise authorized in the statute (see sections 671 and 681(d) of the Individuals with Disabilities Education Act (IDEA)).

Absolute Priority: For FY 2015 and any subsequent year for which we make awards from the list of unfunded applicants from this competition, this

priority is an absolute priority. Under 34 CFR 75.105(c)(3), we consider only applications that meet this priority.

This priority is:

Parent Training and Information Centers.

Background:

The purpose of this priority is to fund 41 Parent Training and Information Centers (PTIs) designed to meet the information and training needs of parents of infants, toddlers, children, and youth with disabilities, ages birth through 26 (collectively, ''children with disabilities''), and the information and training needs of youth with disabilities living in the States, regions of the States, or areas served by the centers.

More than 35 years of research and experience has demonstrated that the education of children with disabilities can be made more effective by strengthening the ability of parents to participate fully in the education of their children at school and at home (see section 601(c)(5)(B) of IDEA). Since the Department first funded PTIs over 35 years ago, it has helped parents set high expectations for their children with disabilities and provided parents with the information and training they need to help their children meet those expectations. The following Web site provides further information on the work of currently funded PTIs: *www.parentcenterhub.org.*

PTIs, consistent with section 671(b) of IDEA, have successfully helped families: (a) navigate systems that provide early intervention, special education, general education, postsecondary options, and related services; (b) understand the nature of their children's disabilities; (c) learn about their rights and responsibilities under IDEA; (d) expand their knowledge of evidence-based education practices to help their children succeed; (e) strengthen their collaboration with professionals; (f) locate resources available for themselves and their children, which connects them to their local communities; and (g) advocate for improved student achievement, increased graduation rates, and improved postsecondary outcomes for all children through participation in school reform activities. In addition, PTIs have helped youth with disabilities have high expectations for themselves, understand their rights and responsibilities, and learn self-advocacy skills. PTIs have been valuable partners to Federal, State, and local agencies, providing expertise on how to better support families and youth with disabilities so that they can effectively and efficiently access IDEA services.

The PTIs to be funded through this priority will build on the strong history of the program by helping youth become effective self-advocates and by providing parents with information, individual assistance, and training to enable them to: (a) ensure that their children are included in general education classrooms and extracurricular activities with their peers; (b) help their children meet developmental and academic goals; (c) help their children meet challenging expectations established for all children, including college- and career-ready academic standards; and (d) prepare their children to achieve positive postsecondary outcomes that lead to lives that are as productive and independent as possible.

Priority:

The Department intends to fund 41 grants to establish and operate 41 PTIs. Based on the quality of applications received, the Department intends to fund Statewide PTIs in the following States: [1] Alabama, Alaska, Arkansas, Colorado, Connecticut, Georgia, Kansas, Kentucky, Maine, Maryland, Michigan, Montana, Nebraska, Nevada, New Jersey, New Mexico, North Dakota, Ohio, Oregon, Puerto Rico, South Carolina, Utah, Vermont, Virgin Islands, and Wisconsin. In addition, the Department intends to fund multiple PTIs to serve regions within the following States: California, Florida, Illinois, New York, and Texas. Regional PTIs will be better able to provide responsive services to families in the largest, most diverse States. The Department also intends to fund one PTI to serve the following outlying areas and freely associated States [2] in the Pacific: American Samoa, the Federated States of Micronesia, Guam, the Republic of the Marshall Islands, the Commonwealth of the Northern Mariana Islands, and the Republic of Palau.

At a minimum, the PTIs must: (a) increase parents' [3] capacity to help their children with disabilities [4] improve their early learning, school-aged, and postsecondary outcomes; and (b) increase youth with disabilities' capacity to be effective self-advocates.

To be considered for funding under this priority, an applicant must meet the application, programmatic, and administrative requirements of this priority. The requirements are as follows:

(a) Demonstrate, in the narrative section of the application under ''Significance of the Project,'' how the proposed project will, within its State, region of the State, or area served by the center—

(1) Address the needs of parents of children with disabilities for high-quality services that increase parents' capacity to help their children with disabilities improve their early learning, school-aged, and postsecondary outcomes. To meet this requirement, the applicant must—

(i) Present appropriate information on the needs of parents, including underserved parents, low-income parents, parents with limited English proficiency, parents of incarcerated youth with disabilities, and parents with disabilities;

(ii) Demonstrate knowledge of best practices in providing training and information to a variety of audiences, including underserved parents, low-income parents, parents with limited English proficiency, parents of incarcerated youth with disabilities, and parents with disabilities;

(iii) Demonstrate knowledge of best practices in outreach and family-centered services;

(iv) Demonstrate knowledge of current evidence-based education practices and policy initiatives to improve outcomes in early intervention and early childhood, general and special education, transition services, and postsecondary options, including, if applicable to its State, the PROMISE initiative; and

(v) Demonstrate knowledge of how to identify and work with appropriate partners in the State, including local providers and lead agencies providing Part C services; State and local educational agencies; State child welfare agencies; disability-specific systems and entities serving families, such as the State's protection and advocacy system; and other nonprofits serving families in order to improve outcomes; and

(2) Address the needs of youth with disabilities for high-quality services that increase their capacity to be effective self-advocates. To meet this requirement, the applicant must—

(i) Present appropriate information on the needs of youth with disabilities, including underserved youth,

[1] Under section 602(31) of IDEA, the term ''State'' means each of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, and each of the outlying areas. Under section 602(22) ''outlying area'' means the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

[2] As defined in section 611(b)(1)(C) of IDEA.

[3] Section 602(23) of IDEA defines ''parent'' to include natural, adoptive, and foster parents; guardians; individuals acting in the place of natural or adoptive parents, and individuals assigned to be surrogate parents.

[4] The term ''disabilities'' refers to the full range of disabilities described in section 602(3) of IDEA.

incarcerated youth, youth in foster care, and youth with limited English proficiency;

(ii) Demonstrate knowledge of best practices in providing training and information to youth with disabilities;

(iii) Demonstrate knowledge of current evidence-based education practices and policy initiatives in self-advocacy; and

(iv) Demonstrate knowledge of how to work with appropriate partners serving youth with disabilities, including State and local agencies, other nonprofits, and Independent Living Centers that are providing assistance such as postsecondary education options, employment training, and supports.

(b) Demonstrate, in the narrative section of the application, under ''Quality of the Project Services,'' how the proposed project will—

(1) Use a project logic model (see paragraph (f)(1) of this priority) to guide the development of project plans and activities within its State, region of the State, or area served by the centers;

(2) Develop and implement an outreach plan to inform parents of children with disabilities of how they can benefit from the services provided by the PTI, including—

(i) Parents of children who may be inappropriately identified as having a disability;

(ii) Underserved parents, including parents who are underserved based on race or ethnicity;

(iii) Parents with limited English proficiency;

(iv) Low-income parents; and

(v) Parents with disabilities;

(3) Develop and implement an outreach plan to inform youth with disabilities of how they can benefit from the services provided by the PTI;

(4) Provide high-quality services that increase parents' capacity to help their children with disabilities improve their early learning, school-aged, and postsecondary outcomes. To meet this requirement, the applicant must include information as to how the services will—

(i) Increase parents' knowledge of—

(A) The nature of their children's disabilities, including their children's strengths, and academic, behavioral, and developmental challenges;

(B) The importance of having high expectations for their children and how to help them meet those expectations;

(C) The local, State, and Federal resources available to assist them and their children and local resources that strengthen their connection to their communities;

(D) IDEA, Federal IDEA regulations, and State implementation of IDEA, including:

(1) Their rights and responsibilities under IDEA, including procedural safeguards and dispute resolution;

(2) Their role on Individualized Family Service Plan (IFSP) and Individualized Education Program (IEP) Teams and how to effectively participate on IFSP and IEP Teams; and

(3) How services are provided under IDEA;

(E) Other relevant educational and health care legislation, including the Elementary and Secondary Education Act of 1965, as amended (ESEA); section 504 of the Rehabilitation Act of 1973, as amended (section 504); and the Americans with Disabilities Act of 1990(ADA);

(F) Transition services at all levels, including: Part C early intervention to Part B preschool, preschool to elementary school, elementary school to secondary school, secondary school to postsecondary education and workforce options, and re-entry of incarcerated youth to school and the community;

(G) How their children can have access to the general education curriculum, including access to college- and career-ready academic standards and assessments, extracurricular and enrichment opportunities available to all children, and other initiatives to make students college- and career-ready;

(H) How their children can have access to inclusive early learning programs, inclusive general education classrooms and settings, and extracurricular and enrichment opportunities available to all children;

(I) Evidence-based early intervention and education practices that improve early learning, school-aged, and postsecondary outcomes;

(J) School reform efforts to improve student achievement and increase graduation rates; and

(K) The use of data to inform instruction and advance school reform efforts;

(ii) Increase parents' capacity to—

(A) Effectively support their children with disabilities and participate in their children's education;

(B) Communicate effectively and work collaboratively in partnership with early intervention service providers, school-based personnel, related services personnel, and administrators;

(C) Resolve disputes effectively; and

(D) Participate in school reform activities to improve outcomes for children;

(5) Provide high-quality services that increase youth with disabilities' capacity to be effective self-advocates. To meet this requirement, the applicant must include information as to how the services will—

(i) Increase the knowledge of youth with disabilities about—

(A) The nature of their disabilities, including their strengths, and of their academic, behavioral, and developmental challenges;

(B) The importance of having high expectations for themselves and how to meet those expectations;

(C) The resources available to support their success in secondary and postsecondary education and employment and full participation in their communities;

(D) IDEA, section 504, ADA, and other legislation and policies that affect people with disabilities;

(E) Their rights and responsibilities while receiving services under IDEA and after transitioning to post-school programs, services, and employment;

(F) How they can participate on IEP Teams; and

(G) Supported decisionmaking necessary to transition to adult life; and

(ii) Increase the capacity of youth with disabilities to advocate for themselves, including communicating effectively and working in partnership with providers;

(6) Use various methods to deliver services, including in-person and remotely through the use of technology;

(7) Use best practices to provide training and information to adult learners and youth;

(8) Establish cooperative partnerships with any Community Parent Resource Centers (CPRCs) and any other PTIs funded in the State under sections 672 and 671 of IDEA, respectively; and

(9) Network with local, State, and national organizations and agencies, such as protection and advocacy agencies that serve parents and families of children with disabilities, to better support families and children with disabilities to effectively and efficiently access IDEA services.

(c) Demonstrate, in the narrative section of the application, under ''Quality of the Evaluation Plan,'' how—

(1) The applicant will evaluate the effectiveness of the proposed project by undertaking a formative evaluation and a summative evaluation, including a description of how the applicant will measure the outcomes proposed in the logic model (see paragraph (f)(1) of this priority). The description must include—

(i) Proposed evaluation methodologies, including proposed instruments, data collection methods, and analyses; and

(ii) Proposed criteria for determining effectiveness, to include, at a minimum, the effectiveness of strategies used to reach and serve youth with disabilities

and parents, including underserved parents of children with disabilities; and

(2) The proposed project will use the evaluation results to examine the effectiveness of its implementation and its progress toward achieving intended outcomes.

(d) Demonstrate, in the narrative section of the application under ''Adequacy of Project Resources,'' how—

(1) The proposed personnel, consultants, and contractors have the qualifications and experience to carry out the proposed activities and achieve the intended outcomes identified in the project logic model (see paragraph (f)(1) of this priority);

(2) The applicant will encourage applications for employment from persons who are members of groups that have historically been underrepresented based on race, color, national origin, linguistic diversity, gender, age, or disability, as appropriate; and

(3) The applicant and key partners have adequate resources to carry out the proposed activities.

(e) Demonstrate, in the narrative section of the application under ''Quality of the Management Plan,'' how—

(1) The proposed management plan will ensure that the intended outcomes identified in the project logic model (see paragraph (f)(1) of this priority) will be achieved on time and within budget;

(2) The time of key personnel, consultants, and contractors will be sufficiently allocated to the project;

(3) The proposed management plan will ensure that the services provided are of high quality;

(4) The board of directors will be used to provide appropriate oversight to the project;

(5) The proposed project benefits from a diversity of perspectives, including those of parents, providers, and administrators in the State, region of the State, or area to be served by the center;

(6) The proposed project will ensure that the Annual Performance Reports submitted to the Department will—

(i) Be accurate and timely;

(ii) Include information on the projects' outputs and outcomes; and

(iii) Include, at a minimum, the number and demographics of parents and youth to whom the PTI provided information and training, the parents' and youth's unique needs, and the levels of service provided to them; and

(7) The project management and staff will—

(i) Make use of the technical assistance (TA) and products provided by the Office of Special Education Programs (OSEP)-funded Center on Parent Information and Resources (CPIR), Regional Parent Technical Assistance Centers (PTACs), Native American PTAC, Military PTAC, and other TA centers as appropriate, including the PROMISE TA Center (if funded), in order to serve parents of children with disabilities and youth with disabilities as effectively as possible;

(ii) Participate in developing individualized TA plans with the Regional PTAC as appropriate; and

(iii) Facilitate one site visit from the Regional PTAC during the grant cycle.

(f) In the narrative under ''Required Project Assurances'' or appendices as directed, the applicant must—

(1) Include in Appendix A a logic model that depicts, at a minimum, the goals, activities, outputs, and intended outcomes of the proposed project. A logic model communicates how a project will achieve its intended outcomes and provides a framework for both the formative and summative evaluations of the project;

Note: The following Web sites provide more information on logic models: *www.researchutilization.org/matrix/logicmodel_resource3c.html* and *www.tadnet.org/pages/589.*

(2) Include in Appendix A person-loading charts and timelines, as applicable, to illustrate the management plan described in the narrative;

(3) Include in the budget attendance by the project director at one OSEP meeting in Washington DC annually, to be determined by OSEP; and

Note: Within 30 days of receipt of the award, a post-award teleconference must be held between the OSEP project officer and the grantee's project director and other authorized representatives.

(4) Maintain a Web site that meets government or industry-recognized standards for accessibility and that includes, at a minimum, a current calendar of upcoming events, free informational publications for families, and links to Webinars or other online multimedia resources.

Waiver of Proposed Rulemaking: Under the Administrative Procedure Act (APA) (5 U.S.C. 553), the Department generally offers interested parties the opportunity to comment on proposed priorities and requirements. Section 681(d) of IDEA, however, makes the public comment requirements of the APA inapplicable to the priority in this notice.

Program Authority: 20 U.S.C. 1471 and 1481.

Applicable Regulations: This notice inviting applications (NIA) is being published before the Department adopts the Uniform Administrative Requirements, Cost Principles, and Audit Requirements in 2 CFR part 200. We expect to publish interim final regulations that would adopt those requirements before December 26, 2014, and make those regulations effective on that date. Because grants awarded under this NIA will likely be made after we adopt the requirements in 2 CFR part 200, we list as applicable regulations both those that are currently effective and those that will be effective at the time we make the grants.

The current regulations follow: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 81, 82, 84, 97, 98, and 99. (b) The Education Department debarment and suspension regulations in 2 CFR part 3485.

At the time we award grants under this NIA, the following regulations will apply: (a) EDGAR in 34 CFR parts 75, 77, 79, 81, 82, 84, 97, 98, and 99. (b) The Education Department debarment and suspension regulations as adopted in 2 CFR part 3485. (c) The Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards as adopted in 2 CFR part 3474.

Note: The regulations in 34 CFR part 79 apply to all applicants except federally recognized Indian tribes.

II. Award Information

Type of Award: Discretionary grants.

Estimated Available Funds: The Administration has requested $27,411,000 for the Training and Information for Parents of Children with Disabilities program for FY 2015, of which we intend to use an estimated $14,117,737 for this competition. The actual level of funding, if any, depends on final congressional action. However, we are inviting applications to allow enough time to complete the grant process if Congress appropriates funds for this program.

Contingent on the availability of funds and the quality of applications, we may make additional awards for FY 2016 from the list of unfunded applicants from this competition.

Information concerning funding amounts for individual States for this competition is provided in the ''Maximum Award'' columns of the table in this section.

Estimated Average Size of Awards: See table.

Maximum Award: See table.

Estimated Number of Awards: See table.

Project Period: See table.

BILLING CODE 4000–01–P

Training and Information for Parents of Children with Disabilities--Parent Training and Information Centers
Application Notice for Fiscal Year 2015

CFDA Number and Name	Estimated Available Funds (See Note 2)	Estimated Average Size of Awards (See Note 2)	Maximum Award for FY 2015 (See Notes 1 and 3)	Maximum Award for FY 2016 (See Notes 1 and 3)	Maximum Award for FY 2017 (See Notes 1 and 3)	Maximum Award for FY 2018 (See Notes 1 and 3)	Maximum Award for FY 2019 (See Notes 1 and 3)	Estimated Number of Awards (See Note 2)	Project Period	Page Limit	Contact Person
84.328M Parent Training and Information Centers **(See Note 3)**	$14,117,737	$344,335						41	Up to 60 mos. (See Note 1)	50	Carmen Sanchez (202) 245-6595 PCP-4057
Alabama			$302,127	$302,127	$302,127	$302,127	$302,127				
Alaska			$210,492	$210,492	$210,492	$210,492	$210,492				
Arkansas			$206,907	$206,907	$206,907	$206,907	$206,907				
California											
Region 1			$634,671	$634,671	$634,671	$634,671	$634,671				
Region 2			$511,304	$511,304	$511,304	$511,304	$511,304				
Region 3			$363,507	$363,507	$363,507	$363,507	$363,507				
Region 4			$518,129	$518,129	$518,129	$518,129	$518,129				
Region 5			$207,928	$207,928	$207,928	$207,928	$207,928				
Colorado			$292,863	$292,863	$292,863	$292,863	$292,863				
Connecticut			$220,813	$220,813	$220,813	$220,813	$220,813				
Florida											
Region 1			$222,215	$222,215	$222,215	$222,215	$222,215				
Region 2			$403,526	$403,526	$403,526	$403,526	$403,526				
Region 3			$367,460	$367,460	$367,460	$367,460	$367,460				

Georgia			$625,900	$625,900	$625,900	$625,900	$625,900				
Illinois											
Region 1			$487,384	$487,384	$487,384	$487,384	$487,384				
Region 2			$249,925	$249,925	$249,925	$249,925	$249,925				
Kansas			$233,626	$233,626	$233,626	$233,626	$233,626				
Kentucky			$270,469	$270,469	$270,469	$270,469	$270,469				
Maine			$200,000	$200,000	$200,000	$200,000	$200,000				
Maryland			$316,252	$316,252	$316,252	$316,252	$316,252				
Michigan			$582,633	$582,633	$582,633	$582,633	$582,633				
Montana			$200,000	$200,000	$200,000	$200,000	$200,000				
Nebraska			$200,000	$200,000	$200,000	$200,000	$200,000				
Nevada			$200,000	$200,000	$200,000	$200,000	$200,000				
New Jersey			$454,835	$454,835	$454,835	$454,835	$454,835				
New Mexico			$222,334	$222,334	$222,334	$222,334	$222,334				
New York											
Region 1			$616,044	$616,044	$616,044	$616,044	$616,044				
Region 2			$468,417	$468,417	$468,417	$468,417	$468,417				
North Dakota			$200,000	$200,000	$200,000	$200,000	$200,000				
Ohio			$669,421	$669,421	$669,421	$669,421	$669,421				
Oregon			$226,838	$226,838	$226,838	$226,838	$226,838				

Pacific outlying areas and freely associated States			$200,000	$200,000	$200,000	$200,000	$200,000				
Puerto Rico			$217,560	$217,560	$217,560	$217,560	$217,560				
South Carolina			$287,490	$287,490	$287,490	$287,490	$287,490				
Texas											
Region 1			$842,760	$842,760	$842,760	$842,760	$842,760				
Region 2			$629,569	$629,569	$629,569	$629,569	$629,569				
Region 3			$200,000	$200,000	$200,000	$200,000	$200,000				
Utah			$200,000	$200,000	$200,000	$200,000	$200,000				
Vermont			$200,000	$200,000	$200,000	$200,000	$200,000				
Virgin Islands			$103,612	$103,612	$103,612	$103,612	$103,612				
Wisconsin			$350,726	$350,726	$350,726	$350,726	$350,726				

BILLING CODE 4000–01–C

Note 1: Consistent with 34 CFR 75.104(b), we will reject any application that proposes a budget exceeding the maximum award for a single budget period of 12 months. The Assistant Secretary for the Office of Special Education and Rehabilitative Services may change the maximum amount through a notice published in the **Federal Register**.

Note 2: The Department is not bound by any estimates in this notice.

Note 3: Maximum awards for each fiscal year vary due to the consolidation of the PTI competition schedule.

Project Period: In order to allocate resources equitably, create a unified system of service delivery, and provide the broadest coverage for the parents and families in every State, the Department is making awards to PTIs in five-year cycles for each State, region within a State, or area. For FY 2015, applications for five-year awards will be accepted for the following States: Alabama, Alaska, Arkansas, Colorado, Connecticut, Georgia, Kansas, Kentucky, Maine, Maryland, Michigan, Montana, Nebraska, Nevada, New Jersey, New Mexico, North Dakota,, Ohio, Oregon, Puerto Rico, South Carolina, Utah, Vermont, the Virgin Islands, and Wisconsin. These projects will be funded for a period up to 60 months.

Applications for five-year awards will also be accepted to serve regions in the following States:

California:

Region 1—Los Angeles and Ventura counties;

Region 2—Imperial, Orange, Riverside, and San Diego counties;

Region 3—Fresno, Inyo, Kern, Kings, Madera, Mariposa, Merced, Mono, San Bernardino, San Luis Obispo, Santa Barbara, Stanislaus, and Tulare counties;

Region 4— Alameda, Contra Costa, Marin, Monterey, Napa, San Benito, San Francisco, San Joaquin, San Mateo, Santa Clara, Santa Cruz, Sonoma, and Solano counties; and

Region 5— Alpine, Amador, Butte, Calaveras, Colusa, Del Norte, El Dorado, Glenn, Humboldt, Lake, Lassen, Mendocino, Modoc, Nevada, Placer, Plumas, Sacramento, Shasta, Sierra, Siskiyou, Sutter, Tehama, Trinity, Tuolumne, Yolo, and Yuba counties.

Florida:

Region 1—Alachua, Baker, Bay, Bradford, Calhoun, Clay, Columbia, Dixie, Duval, Escambia, Flagler, Franklin, Gadsden, Gilchrist, Gulf, Hamilton, Holmes, Jackson, Jefferson, Lafayette, Leon, Levy, Liberty, Madison, Marion, Nassau, Okaloosa, Putnam, Santa Rosa, St. Johns, Suwannee, Taylor, Union, Volusia, Wakulla, Walton, and Washington counties;

Region 2—Brevard, Citrus, DeSoto, Hardee, Hernando, Highlands, Hillsborough, Indian River, Lake, Manatee, Okeechobee, Orange, Osceola, Pasco, Pinellas, Polk, Sarasota, Seminole, St. Lucie, and Sumter counties; and

Region 3—Broward, Charlotte, Collier, Glades, Hendry, Lee, Martin, Miami-Dade, Monroe, and Palm Beach counties.

Illinois:

Region 1—Cook, DuPage, Grundy, Kane, Kendall, Lake, McHenry, and Will counties; and

Region 2—-the rest of the State of Illinois (Adams, Alexander, Bond, Boone, Brown, Bureau, Calhoun, Carroll, Cass, Champaign, Christian, Clark, Clay, Clinton, Coles, Crawford, Cumberland, De Witt, DeKalb, Douglas, Edgar, Edwards, Effingham, Fayette, Ford, Franklin, Fulton, Gallatin, Greene, Hamilton, Hancock, Hardin, Henderson, Henry, Iroquois, Jackson, Jasper, Jefferson, Jersey, Jo Daviess, Johnson, Kankakee, Knox, LaSalle, Lawrence, Lee, Livingston, Logan, Macon, Macoupin, Madison, Marion, Marshall, Mason, Massac, McDonough, McLean, Menard, Mercer, Monroe, Montgomery, Morgan, Moultrie, Ogle, Peoria, Perry, Piatt, Pike, Pope, Pulaski, Putnam, Randolph, Richland, Rock Island, Saline, Sangamon, Schuyler, Scott, Shelby, St. Clair, Stark, Stephenson, Tazewell, Union, Vermilion, Wabash, Warren, Washington, Wayne, White, Whiteside, Williamson, Winnebago, and Woodford counties).

New York:

Region 1—-Bronx, Nassau, New York, Richmond, Kings, Queens, and Suffolk counties; and

Region 2—-the rest of the State of New York (Albany, Allegany, Broome, Cattaraugus, Cayuga, Chautauqua, Chemung, Chenango, Clinton, Columbia, Cortland, Delaware, Dutchess, Erie, Essex, Franklin, Fulton, Genesee, Greene, Hamilton, Herkimer, Jefferson, Lewis, Livingston, Madison, Monroe, Montgomery, Niagara, Oneida, Onondaga, Ontario, Orange, Orleans, Oswego, Otsego, Putnam, Rensselaer, Rockland, St Lawrence, Saratoga, Schenectady, Schoharie, Schuyler, Seneca, Steuben, Sullivan, Tioga, Tompkins, Ulster, Warren, Washington, Wayne, Westchester, Wyoming, and Yates counties).

Texas:

Region 1—-Anderson, Angelina, Archer, Austin, Bastrop, Bell, Blanco, Bosque, Bowie, Brazos, Burleson, Burnet, Caldwell, Camp, Cass, Cherokee, Clay, Collin, Comal, Comanche, Cooke, Coryell, Dallas, Delta, Denton, Ellis, Erath, Falls, Fannin, Fayette, Franklin, Freestone, Gillespie, Gonzales, Grayson, Gregg, Grimes, Guadalupe, Hamilton, Hardin, Harrison, Hays, Henderson, Hill, Hood, Hopkins, Houston, Hunt, Jack, Jasper, Jefferson, Johnson, Kaufman, Kendall, Lamar, Lampasas, Lee, Leon, Limestone, Llano, Madison, Marion, McLennan, Milam, Mills, Montague, Montgomery, Morris, Nacogdoches, Navarro, Newton, Orange, Palo Pinto, Panola, Parker, Polk, Rains, Red River, Robertson, Rockwall, Rusk, Sabine, San Augustine, San Jacinto, Shelby, Smith, Somervell, Tarrant, Throckmorton, Titus, Travis, Trinity, Tyler, Upshur, Van Zandt, Walker, Waller, Washington, Wichita, Williamson, Wise, Wood, and Young counties;

Region 2—-Aransas, Atascosa, Bandera, Bee, Bexar, Brazoria, Brooks, Calhoun, Cameron, Chambers, Colorado, DeWitt, Duval, Fort Bend, Frio, Galveston, Goliad, Harris, Hidalgo, Jackson, Jim Hogg, Jim Wells, Karnes, Kenedy, Kerr, Kleberg, La Salle, Lavaca, Liberty, Live Oak, Matagorda, McMullen, Medina, Nueces, Refugio, San Patricio, Starr, Victoria, Wharton, Willacy, Wilson, and Zapata counties; and

Region 3—Andrews, Armstrong, Bailey, Baylor, Borden, Brewster, Briscoe, Brown, Callahan, Carson, Castro, Childress, Cochran, Coke, Coleman, Collingsworth, Concho, Cottle, Crane, Crockett, Crosby, Culberson, Dallam, Dawson, Deaf Smith, Dickens, Dimmit, Donley, Eastland, Ector, Edwards, El Paso, Fisher, Floyd, Foard, Gaines, Garza, Glasscock, Gray, Hale, Hall, Hansford, Hardeman, Hartley, Haskell, Hemphill, Hockley, Howard, Hudspeth, Hutchinson, Irion, Jeff Davis, Jones, Kent, Kimble, King, Kinney, Knox, Lamb, Lipscomb, Loving, Lubbock, Lynn, Martin, Mason, Maverick, McCulloch, Menard, Midland, Mitchell, Moore, Motley, Nolan, Ochiltree, Oldham, Parmer, Pecos, Potter, Presidio, Randall, Reagan, Real, Reeves, Roberts, Runnels, San Saba, Schleicher, Scurry, Shackelford, Sherman, Stephens, Sterling, Stonewall, Sutton, Swisher, Taylor, Terrell, Terry, Tom Green, Upton, Uvalde, Val Verde, Ward, Webb, Wheeler, Wilbarger, Winkler, Yoakum, and Zavala counties.

Applications for a five-year award will also be accepted to serve the area in the Pacific comprised of American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands; and the freely associated States of the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau.

Estimated Project Awards: Project award amounts are for a single budget

period of 12 months. To ensure that parents in the most populous States can have timely access to services responsive to their needs, the Department has established regions within these States and has identified corresponding maximum award amounts for each region. Applicants for PTIs to serve the regions within these States must submit a separate application for each of the regions they propose to serve.

The Department took into consideration current funding levels, population distribution, poverty rates, and low-density enrollment when determining the award amounts for grants under this competition. For the States without designated regions listed in the funding table, one award may be made for up to the amounts listed in the table to a qualified applicant for a PTI Center to serve the entire State.

III. Eligibility Information

1. *Eligible Applicants:* Parent organizations.

Note: Section 671(a)(2) of IDEA defines a ''parent organization'' as a private nonprofit organization (other than an institution of higher education) that—

(a) Has a board of directors—

(1) The majority of whom are parents of children with disabilities ages birth through 26;

(2) That includes—

(i) Individuals working in the fields of special education, related services, and early intervention; and

(ii) Individuals with disabilities; and

(3) The parent and professional members of which are broadly representative of the population to be served, including low-income parents and parents of limited English proficient children; and

(b) Has as its mission serving families of children with disabilities who are ages birth through 26, and have the full range of disabilities described in section 602(3) of IDEA.

2. *Cost Sharing or Matching:* This program does not require cost sharing or matching.

3. *Other General Requirements:*

(a) Recipients of funding under this program must make positive efforts to employ and advance in employment qualified individuals with disabilities (see section 606 of IDEA).

(b) Each applicant for, and recipient of, funding under this program must involve individuals with disabilities, or parents of individuals with disabilities ages birth through 26, in planning, implementing, and evaluating the project (see section 682(a)(1)(A) of IDEA).

IV. Application and Submission Information

1. *Address to Request Application Package:* You can obtain an application package via the Internet, from the Education Publications Center (ED Pubs), or from the program office.

To obtain a copy via the Internet, use the following address: *www.ed.gov/fund/grant/apply/grantapps/index.html.* To obtain a copy from ED Pubs, write, fax, or call the following: ED Pubs, U.S. Department of Education, P.O. Box 22207, Alexandria, VA 22304. Telephone, toll free: 1–877–433–7827. FAX: (703) 605–6794. If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call, toll free: 1–877–576–7734.

You can contact ED Pubs at its Web site, also: *www.EDPubs.gov* or at its email address: *edpubs@inet.ed.gov.*

If you request an application from ED Pubs, be sure to identify this competition as follows: CFDA number 84.328M.

To obtain a copy from the program office, contact: Carmen Sanchez, U.S. Department of Education, 400 Maryland Avenue SW., Room 4057, Potomac Center Plaza (PCP), Washington DC 20202–2600. Telephone: (202) 245–6595. If you use a TDD or TTY, call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

Individuals with disabilities can obtain a copy of the application package in an accessible format (*e.g.,* braille, large print, audiotape, or compact disc) by contacting the person or team listed under *Accessible Format* in section VIII of this notice.

2. *Content and Form of Application Submission:* Requirements concerning the content of an application, together with the forms you must submit, are in the application package for this competition.

Page Limit: The application narrative (Part III of the application) is where you, the applicant, address the selection criteria that reviewers use to evaluate your application. You must limit Part III to no more than 50 pages, using the following standards:

- A ''page'' is 8.5'' x 11'', on one side only, with 1'' margins at the top, bottom, and both sides.
- Double-space (no more than three lines per vertical inch) all text in the application narrative, including titles, headings, footnotes, quotations, reference citations, and captions, as well as all text in charts, tables, figures, graphs, and screen shots.
- Use a font that is 12 point or larger.
- Use one of the following fonts: Times New Roman, Courier, Courier New, or Arial. An application submitted in any other font (including Times Roman or Arial Narrow) will not be accepted.

The page limit and double-spacing requirement does not apply to Part I, the cover sheet; Part II, the budget section, including the narrative budget justification; Part IV, the assurances and certifications; or the abstract (follow the guidance provided in the application package for completing the abstract), the table of contents, the list of priority requirements, the resumes, the reference list, the letters of support, or the appendices. However, the page limit and double-spacing requirement does apply to all of Part III, the application narrative, including all text in charts, tables, figures, graphs, and screen shots.

We will reject your application if you exceed the page limit in the application narrative section; or if you apply standards other than those specified in the application package.

3. *Submission Dates and Times:*

Applications Available: December 11, 2014.

Deadline for Transmittal of Applications: February 9, 2015.

Applications for grants under this competition *must be submitted electronically* using the Grants.gov Apply site (Grants.gov). For information (including dates and times) about how to submit your application electronically, or in paper format by mail or hand delivery if you qualify for an exception to the electronic submission requirement, please refer to section IV. 7. *Other Submission Requirements* of this notice.

We do not consider an application that does not comply with the deadline requirements.

Individuals with disabilities who need an accommodation or auxiliary aid in connection with the application process should contact the person listed under **FOR FURTHER INFORMATION CONTACT** in section VII of this notice. If the Department provides an accommodation or auxiliary aid to an individual with a disability in connection with the application process, the individual's application remains subject to all other requirements and limitations in this notice.

Deadline for Intergovernmental Review: April 10, 2015.

4. *Intergovernmental Review:* This program is subject to Executive Order 12372 and the regulations in 34 CFR part 79. Information about Intergovernmental Review of Federal Programs under Executive Order 12372 is in the application package for this competition.

5. *Funding Restrictions:* We reference regulations outlining funding restrictions in the *Applicable Regulations* section of this notice.

6. *Data Universal Numbering System Number, Taxpayer Identification Number, and System for Award Management:* To do business with the Department of Education, you must—

a. Have a Data Universal Numbering System (DUNS) number and a Taxpayer Identification Number (TIN);

b. Register both your DUNS number and TIN with the System for Award Management (SAM) (formerly the Central Contractor Registry (CCR)), the Government's primary registrant database;

c. Provide your DUNS number and TIN on your application; and

d. Maintain an active SAM registration with current information while your application is under review by the Department and, if you are awarded a grant, during the project period.

You can obtain a DUNS number from Dun and Bradstreet. A DUNS number can be created within one-to-two business days.

If you are a corporate entity, agency, institution, or organization, you can obtain a TIN from the Internal Revenue Service. If you are an individual, you can obtain a TIN from the Internal Revenue Service or the Social Security Administration. If you need a new TIN, please allow 2–5 weeks for your TIN to become active.

The SAM registration process can take approximately seven business days, but may take upwards of several weeks, depending on the completeness and accuracy of the data entered into the SAM database by an entity. Thus, if you think you might want to apply for Federal financial assistance under a program administered by the Department, please allow sufficient time to obtain and register your DUNS number and TIN. We strongly recommend that you register early.

Note: Once your SAM registration is active, you will need to allow 24 to 48 hours for the information to be available in Grants.gov and before you can submit an application through Grants.gov.

If you are currently registered with SAM, you may not need to make any changes. However, please make certain that the TIN associated with your DUNS number is correct. Also note that you will need to update your registration annually. This may take three or more business days.

Information about SAM is available at *www.SAM.gov.* To further assist you with obtaining and registering your DUNS number and TIN in SAM or updating your existing SAM account, we have prepared a SAM.gov Tip Sheet, which you can find at: *http://www2.ed.gov/fund/grant/apply/sam-faqs.html.*

In addition, if you are submitting your application via Grants.gov, you must (1) be designated by your organization as an Authorized Organization Representative (AOR); and (2) register yourself with Grants.gov as an AOR. Details on these steps are outlined at the following Grants.gov Web page: *www.grants.gov/web/grants/register.html.*

7. *Other Submission Requirements:* Applications for grants under this competition must be submitted electronically unless you qualify for an exception to this requirement in accordance with the instructions in this section.

a. *Electronic Submission of Applications.*

Applications for grants under the Parent Training and Information Centers competition, CFDA number 84.328M, must be submitted electronically using the Governmentwide Grants.gov Apply site at *www.Grants.gov.* Through this site, you will be able to download a copy of the application package, complete it offline, and then upload and submit your application. You may not email an electronic copy of a grant application to us.

We will reject your application if you submit it in paper format unless, as described elsewhere in this section, you qualify for one of the exceptions to the electronic submission requirement *and* submit, no later than two weeks before the application deadline date, a written statement to the Department that you qualify for one of these exceptions. Further information regarding calculation of the date that is two weeks before the application deadline date is provided later in this section under *Exception to Electronic Submission Requirement.*

You may access the electronic grant application for the Parent Training and Information Centers competition at *www.Grants.gov.* You must search for the downloadable application package for this competition by the CFDA number. Do not include the CFDA number's alpha suffix in your search (*e.g.,* search for 84.328, not 84.328M).

Please note the following:

- When you enter the Grants.gov site, you will find information about submitting an application electronically through the site, as well as the hours of operation.
- Applications received by Grants.gov are date and time stamped. Your application must be fully uploaded and submitted and must be date and time stamped by the Grants.gov system no later than 4:30:00 p.m., Washington, DC time, on the application deadline date. Except as otherwise noted in this section, we will not accept your application if it is received—that is, date and time stamped by the Grants.gov system—after 4:30:00 p.m., Washington, DC time, on the application deadline date. We do not consider an application that does not comply with the deadline requirements. When we retrieve your application from Grants.gov, we will notify you if we are rejecting your application because it was date and time stamped by the Grants.gov system after 4:30:00 p.m., Washington, DC time, on the application deadline date.
- The amount of time it can take to upload an application will vary depending on a variety of factors, including the size of the application and the speed of your Internet connection. Therefore, we strongly recommend that you do not wait until the application deadline date to begin the submission process through Grants.gov.
- You should review and follow the Education Submission Procedures for submitting an application through Grants.gov that are included in the application package for this competition to ensure that you submit your application in a timely manner to the Grants.gov system. You can also find the Education Submission Procedures pertaining to Grants.gov under News and Events on the Department's G5 system home page at *www.G5.gov.*
- You will not receive additional point value because you submit your application in electronic format, nor will we penalize you if you qualify for an exception to the electronic submission requirement, as described elsewhere in this section, and submit your application in paper format.
- You must submit all documents electronically, including all information you typically provide on the following forms: The Application for Federal Assistance (SF 424), the Department of Education Supplemental Information for SF 424, Budget Information—Non-Construction Programs (ED 524), and all necessary assurances and certifications.
- You must upload any narrative sections and all other attachments to your application as files in a PDF (Portable Document) read-only, non-modifiable format. Do not upload an interactive or fillable PDF file. If you upload a file type other than a read-only, non-modifiable PDF or submit a password-protected file, we will not review that material. Additional, detailed information on how to attach files is in the application instructions.

• Your electronic application must comply with any page-limit requirements described in this notice.

• After you electronically submit your application, you will receive from Grants.gov an automatic notification of receipt that contains a Grants.gov tracking number. (This notification indicates receipt by Grants.gov only, not receipt by the Department.) The Department then will retrieve your application from Grants.gov and send a second notification to you by email. This second notification indicates that the Department has received your application and has assigned your application a PR/Award number (an ED-specified identifying number unique to your application).

• We may request that you provide us original signatures on forms at a later date.

Application Deadline Date Extension in Case of Technical Issues with the Grants.gov System: If you are experiencing problems submitting your application through Grants.gov, please contact the Grants.gov Support Desk, toll free, at 1–800–518–4726. You must obtain a Grants.gov Support Desk Case Number and must keep a record of it.

If you are prevented from electronically submitting your application on the application deadline date because of technical problems with the Grants.gov system, we will grant you an extension until 4:30:00 p.m., Washington, DC time, the following business day to enable you to transmit your application electronically or by hand delivery. You also may mail your application by following the mailing instructions described elsewhere in this notice.

If you submit an application after 4:30:00 p.m., Washington, DC time, on the application deadline date, please contact the person listed under **FOR FURTHER INFORMATION CONTACT** in section VII of this notice and provide an explanation of the technical problem you experienced with Grants.gov, along with the Grants.gov Support Desk Case Number. We will accept your application if we can confirm that a technical problem occurred with the Grants.gov system and that that problem affected your ability to submit your application by 4:30:00 p.m., Washington, DC time, on the application deadline date. The Department will contact you after a determination is made on whether your application will be accepted.

Note: The extensions to which we refer in this section apply only to the unavailability of, or technical problems with, the Grants.gov system. We will not grant you an extension if you failed to fully register to submit your application to Grants.gov before the application deadline date and time or if the technical problem you experienced is unrelated to the Grants.gov system.

Exception to Electronic Submission Requirement: You qualify for an exception to the electronic submission requirement, and may submit your application in paper format, if you are unable to submit an application through the Grants.gov system because—

• You do not have access to the Internet; or

• You do not have the capacity to upload large documents to the Grants.gov system;

and

• No later than two weeks before the application deadline date (14 calendar days or, if the fourteenth calendar day before the application deadline date falls on a Federal holiday, the next business day following the Federal holiday), you mail or fax a written statement to the Department, explaining which of the two grounds for an exception prevent you from using the Internet to submit your application.

If you mail your written statement to the Department, it must be postmarked no later than two weeks before the application deadline date. If you fax your written statement to the Department, we must receive the faxed statement no later than two weeks before the application deadline date.

Address and mail or fax your statement to: Carmen Sanchez, U.S. Department of Education, 400 Maryland Avenue SW., Room 4057, Potomac Center Plaza (PCP), Washington, DC 20202–2600. FAX: (202) 245–7617.

Your paper application must be submitted in accordance with the mail or hand delivery instructions described in this notice.

b. *Submission of Paper Applications by Mail.*

If you qualify for an exception to the electronic submission requirement, you may mail (through the U.S. Postal Service or a commercial carrier) your application to the Department. You must mail the original and two copies of your application, on or before the application deadline date, to the Department at the following address:

U.S. Department of Education, Application Control Center, Attention: (CFDA Number 84.328M), LBJ Basement Level 1, 400 Maryland Avenue SW., Washington, DC 20202–4260.

You must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Secretary of the U.S. Department of Education.

If you mail your application through the U.S. Postal Service, we do not accept either of the following as proof of mailing:

(1) A private metered postmark.

(2) A mail receipt that is not dated by the U.S. Postal Service.

If your application is postmarked after the application deadline date, we will not consider your application.

Note: The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, you should check with your local post office.

c. *Submission of Paper Applications by Hand Delivery.* If you qualify for an exception to the electronic submission requirement, you (or a courier service) may deliver your paper application to the Department by hand. You must deliver the original and two copies of your application by hand, on or before the application deadline date, to the Department at the following address: U.S. Department of Education, Application Control Center, Attention: (CFDA Number 84.328M), 550 12th Street SW., Room 7039, Potomac Center Plaza, Washington, DC 20202–4260.

The Application Control Center accepts hand deliveries daily between 8:00 a.m. and 4:30:00 p.m., Washington, DC time, except Saturdays, Sundays, and Federal holidays.

Note for Mail or Hand Delivery of Paper Applications: If you mail or hand deliver your application to the Department—

(1) You must indicate on the envelope and—if not provided by the Department—in Item 11 of the SF 424 the CFDA number, including suffix letter, if any, of the competition under which you are submitting your application; and

(2) The Application Control Center will mail to you a notification of receipt of your grant application. If you do not receive this notification within 15 business days from the application deadline date, you should call the U.S. Department of Education Application Control Center at (202) 245–6288.

V. Application Review Information

1. *Selection Criteria:* The selection criteria for this program are from 34 CFR 75.210 and are listed in the application package.

2. *Review and Selection Process:* We remind potential applicants that in reviewing applications in any discretionary grant competition, the Secretary may consider, under 34 CFR

75.217(d)(3), the past performance of the applicant in carrying out a previous award, such as the applicant's use of funds, achievement of project objectives, and compliance with grant conditions. The Secretary may also consider whether the applicant failed to submit a timely performance report or submitted a report of unacceptable quality.

In addition, in making a competitive grant award, the Secretary also requires various assurances including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department of Education (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

3. *Additional Review and Selection Process Factors:* In the past, the Department has had difficulty finding peer reviewers for certain competitions because so many individuals who are eligible to serve as peer reviewers have conflicts of interest. The standing panel requirements under section 682(b) of IDEA also have placed additional constraints on the availability of reviewers. Therefore, the Department has determined that for some discretionary grant competitions, applications may be separated into two or more groups and ranked and selected for funding within specific groups. This procedure will make it easier for the Department to find peer reviewers by ensuring that greater numbers of individuals who are eligible to serve as reviewers for any particular group of applicants will not have conflicts of interest. It also will increase the quality, independence, and fairness of the review process, while permitting panel members to review applications under discretionary grant competitions for which they also have submitted applications. However, if the Department decides to select an equal number of applications in each group for funding, this may result in different cut-off points for fundable applications in each group.

4. *Special Conditions:* Under current 34 CFR 74.14 and 80.12 and, when grants are made under this NIA, 2 CFR 3574.10, the Secretary may impose specific conditions and, in appropriate circumstances, high risk conditions on a grant if the applicant or grantee is not financially stable; has a history of unsatisfactory performance; has a financial or other management system that does not meet the standards in 34 CFR parts 74 or 80, as applicable or, when grants are awarded, the standards in 2 CFR part 200, subpart D; has not fulfilled the conditions of a prior grant; or is otherwise not responsible. VI. Award Administration Information

1. *Award Notices:* If your application is successful, we notify your U.S. Representative and U.S. Senators and send you a Grant Award Notification (GAN); or we may send you an email containing a link to access an electronic version of your GAN. We may notify you informally, also.

If your application is not evaluated or not selected for funding, we notify you.

2. *Administrative and National Policy Requirements:* We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section of this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section of this notice and include these and other specific conditions in the GAN. The GAN also incorporates your approved application as part of your binding commitments under the grant.

3. *Reporting:* (a) If you apply for a grant under this competition, you must ensure that you have in place the necessary processes and systems to comply with the reporting requirements in 2 CFR part 170 should you receive funding under the competition. This does not apply if you have an exception under 2 CFR 170.110(b).

(b) At the end of your project period, you must submit a final performance report, including financial information, as directed by the Secretary. If you receive a multi-year award, you must submit an annual performance report that provides the most current performance and financial expenditure information as directed by the Secretary under 34 CFR 75.118. The Secretary may also require more frequent performance reports under 34 CFR 75.720(c). For specific requirements on reporting, please go to *www.ed.gov/fund/grant/apply/appforms/appforms.html.*

4. *Performance Measures:* Under the Government Performance and Results Act of 1993 (GPRA), the Department has established a set of performance measures, including long-term measures, that are designed to yield information on various aspects of the effectiveness and quality of the Training and Information for Parents of Children with Disabilities program. The measures focus on the extent to which projects provide high-quality products and services, the relevance of project products and services to educational and early intervention policy and practice, and the use of products and services to improve educational and early intervention policy and practice. Projects funded under this competition are required to submit data on these measures as directed by OSEP.

Grantees will be required to report information on their project's performance in annual and final performance reports to the Department (34 CFR 75.590).

5. *Continuation Awards:* In making a continuation award, the Secretary may consider, under 34 CFR 75.253, the extent to which a grantee has made ''substantial progress toward meeting the objectives in its approved application.'' This consideration includes the review of a grantee's progress in meeting the targets and projected outcomes in its approved application, and whether the grantee has expended funds in a manner that is consistent with its approved application and budget. In making a continuation grant, the Secretary also considers whether the grantee is operating in compliance with the assurances in its approved application, including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

VII. Agency Contact

FOR FURTHER INFORMATION CONTACT: Carmen Sanchez, U.S. Department of Education, 400 Maryland Avenue SW., Room 4057, PCP, Washington, DC 20202–2600. Telephone: (202) 245–6595.

If you use a TDD or a TTY, call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

VIII. Other Information

Accessible Format: Individuals with disabilities can obtain this document and a copy of the application package in an accessible format (*e.g.,* braille, large print, audiotape, or compact disc) by contacting the Grants and Contracts Services Team, U.S. Department of Education, 400 Maryland Avenue SW., Room 5075, PCP, Washington, DC 20202–2550. Telephone: (202) 245–7363. If you use a TDD or a TTY, call the FRS, toll free, at 1–800–877–8339.

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Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at: *www.federalregister.gov.* Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Dated: December 5, 2014.

Michael K. Yudin,

Acting Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 2014–29133 Filed 12–10–14; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Agency Information Collection Extension

AGENCY: U.S. Department of Energy.

ACTION: Notice and request for comments.

SUMMARY: The Department of Energy (DOE), pursuant to the Paperwork Reduction Act of 1995, intends to extend for three years, an information collection request with the Office of Management and Budget (OMB). Comments are invited on: (a) Whether the extended collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Comments regarding this proposed information collection must be received on or before February 9, 2015. If you anticipate difficulty in submitting comments within that period, contact the person listed below as soon as possible.

ADDRESSES: Written comments may be sent to Robert M. Myers, U.S. Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585–1615, 202–287–1584, or by fax at 202–287–1349, or by email at *robert.myers@hq.doe.gov.*

FOR FURTHER INFORMATION CONTACT: Robert Myers at the address listed above. Reporting requirements are found in DOE Order 350.1, Contractor Human Resource Management Programs, *www.directives.doe.gov/directives-documents/300-series/0350.1–BOrder-Chg5.*

SUPPLEMENTARY INFORMATION: This information collection request contains: (1) *OMB No.:* 1910–0600; (2) *Information Collection Request Title:* Industrial Relations; (3) *Type of Review:* Renewal; (4) *Purpose:* This information is required for management oversight of the Department of Energy's Facilities Management Contractors and to ensure that the programmatic and administrative management requirements of the contract are managed efficiently and effectively; (5) *Annual Estimated Number of Respondents:* 316; (6) *Annual Estimated Number of Total Responses:* 316; (7) *Annual Estimated Number of Burden Hours:* 8,140; (8) *Annual Estimated Reporting and Recordkeeping Cost Burden:* $0.

Statutory Authority: 42 U.S.C. 7256; 48 CFR 970.0370–1.

Issued in Washington, DC on November 19, 2014.

Paul Bosco,

Director, Office of Acquisition and Project Management (APM).

[FR Doc. 2014–29077 Filed 12–10–14; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Bonneville Power Administration

Availability of the Bonneville Purchasing Instructions (BPI) and Bonneville Financial Assistance Instructions (BFAI)

AGENCY: Bonneville Power Administration (BPA), DOE.

ACTION: Notice of document availability.

SUMMARY: Copies of the Bonneville Purchasing Instructions (BPI), which contain the policy and establish the procedures that BPA uses in the solicitation, award, and administration of its purchases of goods and services, including construction, are available in printed form or at the following Internet address: *http://www.bpa.gov/corporate/business/bpi.*

Copies of the Bonneville Financial Assistance Instructions (BFAI), which contain the policy and establish the procedures that BPA uses in the solicitation, award, and administration of financial assistance instruments (principally grants and cooperative agreements), are available in printed form or available at the following Internet address: *http://www.bpa.gov/corporate/business/bfai.*

ADDRESSES: Unbound copies of the BPI or BFAI may be obtained by sending a request to the Head of the Contracting Activity, Routing CGP–7, Bonneville Power Administration, P.O. Box 3621, Portland, Oregon 97208–3621.

FOR FURTHER INFORMATION CONTACT: Head of Contracting Activity (503) 230–5498.

SUPPLEMENTARY INFORMATION: BPA was established in 1937 as a Federal Power Marketing Agency in the Pacific Northwest. BPA operations are financed from power revenues rather than annual appropriations. BPA's purchasing operations are conducted under 16 U.S.C. 832 *et seq.* and related statutes. Pursuant to these special authorities, the BPI is promulgated as a statement of purchasing policy and as a body of interpretative regulations governing the conduct of BPA purchasing activities. It is significantly different from the Federal Acquisition Regulation, and reflects BPA's private sector approach to purchasing the goods and services that it requires. BPA's financial assistance operations are conducted under 16 U.S.C. 839 *et seq.* and 16 U.S.C. 839 *et seq.* The BFAI express BPA's financial assistance policy. The BFAI also comprise BPA's rules governing implementation of the principles provided in the following Federal Regulations and/or OMB circulars:

2 CFR part 220 Cost Principles for Educational Institutions (CircularA–21);

2 CFR part 225 Cost Principles for State, Local and Indian Tribal Governments (Circular A–87);

Grants and Cooperative Agreements with State and Local Governments (Circular A–102);

Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals and Other Non-Profit Organizations (Circular A–110);

2 CFR part 230 Cost Principles for Non-Profit Organizations (Circular A–122); and

Audits of States, Local Governments and Non-Profit Organizations (Circular A–133)

BPA's solicitations and contracts include notice of applicability and availability of the BPI and the BFAI, as appropriate, for the information for offerors on particular purchases or financial assistance transactions.

Issued in Portland, Oregon, on December 5, 2014.

Betsy Schneider,

Acting Manager, Purchasing/Property Governance.

[FR Doc. 2014–29154 Filed 12–10–14; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Office of Energy Efficiency and Renewable Energy

DOE Materials-Based Hydrogen Storage Summit: Defining Pathways for Onboard Automotive Applications

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy (DOE).

ACTION: Notice of public workshop.

SUMMARY: This notice announces a public workshop for interested parties to learn about recent results from DOE's materials-based hydrogen storage system modeling efforts. In addition, DOE intends to gather input from workshop participants to identify hydrogen storage material development pathways and potential future areas of research. This input will be used to help guide future activities for the DOE Hydrogen Storage Program.

DATES: The workshop will be held Tuesday, January 27, 2015 from 8:30 a.m. to 5 p.m. and Wednesday, January 28, 2015 from 8:30 a.m. to 2:30 p.m. Registration and a $75 fee is required; Web site address to registration is provided below.

ADDRESSES: National Renewable Energy Laboratory, Research Support Facility, 15013 Denver West Parkway Golden, CO 80401, Attn: Matt Thornton (*matthew.thornton@nrel.gov*).

FOR FURTHER INFORMATION CONTACT: Questions may be directed to—Ned Stetson, Ph.D., DOE Hydrogen Storage Program Manager at 202–586–9995 or by email at *ned.stetson@ee.doe.gov.*

SUPPLEMENTARY INFORMATION: The U.S. Department of Energy's (DOE's) National Renewable Energy Laboratory (NREL) in conjunction with the DOE Fuel Cell Technologies Office's Hydrogen Storage Program (*http://energy.gov/sites/prod/files/2014/11/f19/fcto_myrdd_storage.pdf*), will host a public workshop titled: DOE Materials-based Hydrogen Storage Summit: Defining Pathways for Onboard Automotive Applications.

Recent analysis efforts, including results from the Hydrogen Storage Engineering Center of Excellence, identified the material-level characteristics required to meet the DOE system-level performance targets. These results show that although the DOE has invested extensively in hydrogen storage materials development, no material has been identified that, when incorporated into a complete system, can meet the challenging DOE performance targets.

Fuel cell electric vehicles are being introduced commercially today. Therefore, if materials-based storage technologies are to be employed on consumer vehicles in the future, it is imperative that the development of hydrogen storage materials be accelerated and efforts focused on pathways with the highest probability of success. Through an understanding of the material characteristics needed to meet system performance targets, it is expected that material development strategies can be optimized to meet the DOE hydrogen storage targets.

In summary, this workshop will serve two main objectives:

(1) Disseminate recent results from DOE Hydrogen Storage system modeling efforts and discuss their implications on hydrogen storage materials development efforts.

(2) Gather input from meeting participants to identify hydrogen storage materials development pathways and potential future areas of research which will lead to the highest probability of success. This input will be used to help guide future activities for the DOE Hydrogen Storage Program.

Please visit: *http://www.nrel.gov/hydrogen/materials-based-storage-summit.html* for more information on the workshop including the current agenda.

To register, please visit: *http://www.nrel.gov/ap/h2-storage-summit/.* Please note that registration is required for all meeting attendees. Cash or check payment of $75 will be collected on the morning of the first day of the meeting.

Issued in Washington, DC on November 24, 2014.

Sunita Satyapal,

Director, DOE Fuel Cell Technologies Office.

[FR Doc. 2014–29076 Filed 12–10–14; 8:45 am]

BILLING CODE P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. CP15–17–000; PF14–1–000]

Sabal Trail Transmission, LLC; Notice of Application

Take notice that on November 21, 2014, Sabal Trail Transmission, LLC (Sabal Trail), 5400 Westheimer Court, Houston, TX 77056, filed an application under section 7(c) of the Natural Gas Act, requesting authorization to construct, own, and operate a new 500-mile natural gas pipeline system (Sabal Trail Project), including 209,900 horsepower at five compressor stations, metering and regulating stations, and appurtenant facilities in Alabama, Georgia, and Florida. Sabal Trail also requests a certificate of public convenience and necessity to acquire by lease from Transcontinental Gas Pipe Line Company, LLC (Transco) the incremental firm capacity that will be created by Transco's proposed Hillabee Expansion Project (Docket No. CP15–16–000). Sabal Trail also requests a blanket certificate pursuant to Part 157, Subpart F of the Commission's regulations, authorizing Sabal Trail to construct, operate, acquire and abandon certain facilities as described in Part 157, Subpart F, and a blanket certificate pursuant to Part 284, Subpart G of the Commission's regulations, authorizing Sabal Trail to provide open-access firm and interruptible interstate natural gas transportation services on a self-implementing basis with pre-granted abandonment for such services, all as more fully set forth in the application which is on file with the Commission and open for public inspection. The filing may also be viewed on the web at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC at *FERCOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or TTY, (202) 502–8659.

Any questions regarding the proposed project should be directed to Lisa A. Connally, General Manager, Rates and Certificates, Sabal Trail Transmission, LLC, P.O. Box 1642, Houston, Texas 77251–1642, or by calling (713) 627–4102 (telephone) or email at *laconnolly@spectraenergy.com.*

On October 16, 2013, the Commission staff granted Sabal Trail's request to utilize the National Environmental Policy Act (NEPA) Pre-Filing Process and assigned Docket No. PF14–1–000 to staff activities involving the project. Now, as of the filing of this application on November 21, 2014, the NEPA Pre-Filing Process for this project has ended. From this time forward, this proceeding will be conducted in Docket No. CP15–17–000, as noted in the caption of this Notice.

Because the environmental review of the Sabal Trail Project must also include both the Hillabee Expansion Project and Florida Southeast Connection LLC's

FSC Project (Docket No. CP14–554–000), preparation of the Environmental Impact Statement (EIS) to comply with the NEPA of 1969 will combine all three applications. Within 90 days after the issuance of this Notice of Application, concurrent with the Notice of Application in CP15–16–000, the Commission staff will issue a Notice of Schedule for Environmental Review that will indicate the anticipated date for the Commission's staff issuance of the final EIS analyzing all three proposals. The issuance of a Notice of Schedule for Environmental Review will also serve to notify federal and state agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all federal authorizations within 90 days of the date of issuance of the Commission staff's final EIS.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the comment date stated below, file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 7 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commenters will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commenters will not be required to serve copies of filed documents on all other parties. However, the non-party commenters will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission strongly encourages electronic filings of comments, protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

Comment Date: December 24, 2014.

Dated: December 3, 2014.

Kimberly D. Bose,

Secretary.

[FR Doc. 2014–29049 Filed 12–10–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. CP15–16–000; PF14–6–000]

Transcontinental Gas Pipe Line Company, LLC; Notice of Application

Take notice that on November 18, 2014, Transcontinental Gas Pipe Line Company, LLC (Transco), 2800 Post Oak Boulevard, Houston, TX 77056–6106, filed an application under section 7(b) and 7(c) of the Natural Gas Act, requesting authorization to construct, own, and operate approximately 43.5 miles of pipeline looping facilities and 88,500 horsepower of compression at one new and three existing compressor stations, all in Alabama (Hillabee Expansion Project), and to abandon the 1,131,730 dekatherms per day project capacity by lease to Sabal Trail Transmission, LLC (Sabal Trail) (Docket No. CP15–17–000), all as more fully set forth in the application which is on file with the Commission and open for public inspection. The filing may also be viewed on the web at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC at *FERCOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or TTY, (202) 502–8659.

Any questions regarding the proposed project should be directed to Derrick Hughey, Transcontinental Gas Pipe Line Company, LLC, P.O. Box 1396, Houston, Texas 77251, or by calling (713) 215–2450 (telephone) or email at *PipelineExpansion@williams.com.*

On November 8, 2013, the Commission staff granted Transco's request to utilize the National Environmental Policy Act (NEPA) Pre-Filing Process and assigned Docket No. PF14–6–000 to staff activities involving the project. Now, as of the filing of this application on November 18, 2014, the NEPA Pre-Filing Process for this project has ended. From this time forward, this proceeding will be conducted in Docket No. CP15–16–000, as noted in the caption of this Notice.

Because the environmental review of the Hillabee Expansion Project must also include both Sabal Trail and Florida Southeast Connection LLC's FSC Project (Docket No. CP14–554–000), preparation of the Environmental Impact Statement (EIS) to comply with the NEPA of 1969 will combine all three applications. Within 90 days after the issuance of this Notice of Application, concurrent with the Notice of Application in CP15–17–000, the Commission staff will issue a Notice of Schedule for Environmental Review that will indicate the anticipated date for the Commission's staff issuance of the final EIS analyzing all three proposals. The issuance of a Notice of Schedule for Environmental Review will also serve to notify federal and state agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all federal authorizations within 90 days of the date of issuance of the Commission staff's final EIS.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the comment date stated below, file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party

status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 7 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commenters will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commenters will not be required to serve copies of filed documents on all other parties. However, the non-party commenters will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission strongly encourages electronic filings of comments, protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

Comment Date: December 24, 2014.

Dated: December 3, 2014.

Kimberly D. Bose,

Secretary.

[FR Doc. 2014–29054 Filed 12–10–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP15–238–000]

Mountaineer Gas Company v. Washington Gas Light Company; Notice of Complaint

Take notice that on December 2, 2014, pursuant to Rules 203 and 206 of the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure, 18 CFR 385.203 and 385.206, Mountaineer Gas Company (Complainant), filed a formal complaint against Washington Gas Light Company (Respondent), alleging that the terms and conditions of service applicable to firm transportation service the Respondent currently provides to the Complainant is unjust, unfair, and discriminatory. Particularly, Complainant requests the Commission require Respondent to amend its Firm Interstate Service Operating Statement and the underlying Firm Interstate Transportation Service Agreement to include a standard meter error provision, as more fully explained in the complaint.

The Complainant certifies that copies of the complaint were served on the contacts of the Respondent as listed on the Commission's list of Corporate Officials.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. The Respondent's answer and all interventions, or protests must be filed on or before the comment date. The Respondent's answer, motions to intervene, and protests must be served on the Complainants.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for 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.

Comment Date: 5:00 p.m. Eastern Time on December 22, 2014.

Dated: December 3, 2014.

Kimberly D. Bose,

Secretary.

[FR Doc. 2014–29051 Filed 12–10–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL15–25–000]

New England Power Generators Association, Inc. v. ISO New England Inc.; Notice of Complaint

Take notice that on December 3, 2014, pursuant to section 206 of the Federal Power Act, 16 U.S.C. 824e and Rule 206 of the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure, 18 CFR 385.206, the New England Power Generators Association, Inc. (Complainant), filed a formal complaint against ISO New England Inc. (Respondent), alleging that the current provisions of the Respondent's Transmission, Markets and Services Tariff governing the Peak Energy Rent (PER) Adjustment are unjust and unreasonable, and discriminatory, as more fully explained in the complaint.

The Complainant certifies that copies of the complaint were served on the contacts of the Respondent as listed on the Commission's list of Corporate Officials.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. The Respondent's answer and all interventions, or protests must be filed on or before the comment date. The Respondent's answer, motions to

intervene, and protests must be served on the Complainants.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for 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.

Comment Date: 5:00 p.m. Eastern Time on December 23, 2014.

Dated: December 4, 2014.

Kimberly D. Bose,

Secretary.

[FR Doc. 2014–29052 Filed 12–10–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Staff Attendance

The Federal Energy Regulatory Commission (Commission) hereby gives notice that members of the Commission's staff may attend the following meeting related to the transmission planning activities of the Southwest Power Pool, Inc. (SPP).

SPP Planning Summit December 2014

The above-referenced meeting will be held December 16, 2014 at:

SPP Corporate Offices, Auditorium B, 201 Worthen Drive, Little Rock, AR 72223.

The above-referenced meeting is open to the public.

The discussions at the meeting described above may address matters at issue in the following proceedings:

Docket No. ER13–366, *Southwest Power Pool, Inc.*

Docket No. ER13–367, *Southwest Power Pool, Inc.*

Docket No. ER13–1937, *Southwest Power Pool, Inc.*

Docket No. ER13–1939, *Southwest Power Pool, Inc.*

Docket No. ER14–2850, *Southwest Power Pool, Inc.*

Docket No. ER14–2851, *Southwest Power Pool, Inc.*

Docket No. ER15–492, *Southwest Power Pool, Inc.*

Docket No. ER15–509, *Southwest Power Pool, Inc.*

For more information, contact Jay Sher, Office of Energy Market Regulation, Federal Energy Regulatory Commission at (202) 502–8921 or *jay.sher@ferc.gov.*

Dated: December 4, 2014.

Kimberly D. Bose,

Secretary.

[FR Doc. 2014–29053 Filed 12–10–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL15–24–000]

InterAmerican Energy Sources LLC; Notice of Petition for Declaratory Order

Take notice that on December 3, 2014, pursuant to Rule 207 of the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure, 18 CFR 385.207 (2014), InterAmerican Energy Sources LLC filed a petition for declaratory order requesting the Commission find that: (1) it qualifies for exemption under the Federal Power Act section 201(f), 16 U.S.C. 824(f), as a wholly owned subsidiary of a state political subdivision and (2) after a potential underwater transmission cable, interconnecting Puerto Rico Electric Power Authority and the Virgin Islands Water and Power Authority power grids, is constructed and placed in service, the reliability standards used by Puerto Rico Electric Power Authority shall apply, not those imposed by the North American Electric Reliability Corporation, as more fully explained in the petition.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on the Petitioner.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5:00 p.m. Eastern time on January 2, 2015.

Dated: December 4, 2014.

Kimberly D. Bose,

Secretary.

[FR Doc. 2014–29050 Filed 12–10–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. AD14–14–000]

Price Formation in Energy and Ancillary Services Markets Operated by Regional Transmission Organizations and Independent System Operators; Notice of Issuance of Report on Operator Actions in RTO and ISO Markets

As announced in Notices issued October 10, 2014, and November 20, 2014, the Federal Energy Regulatory Commission (Commission) will hold a workshop on Tuesday, December 9, 2014 to commence a discussion with industry on operator actions in energy and ancillary service markets operated by the Regional Transmission Organizations and Independent System Operators (RTOs/ISOs).

A report on operator actions in RTO/ISO markets has been posted to the Commission Web site at: *http://www.ferc.gov/legal/staff-reports/2014/AD14-14-operator-actions.pdf.*

Dated: December 4, 2014.

Kimberly D. Bose,

Secretary.

[FR Doc. 2014–29048 Filed 12–10–14; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–RCRA–2014–0839; FRL–9920–38–OSWER]

Agency Information Collection Activities; Proposed Collection; Comment Request; State Program Adequacy Determination: Municipal Solid Waste Landfills and Non-Municipal, Non-Hazardous Waste Disposal Units That Receive Conditionally Exempt Small Quantity Generator Hazardous Waste

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) is planning to submit an information collection request (ICR), ''State Program Adequacy Determination: Municipal Solid Waste Landfills (MSWLFs) and Non-Municipal, Non-Hazardous Waste Disposal Units that Receive Conditionally Exempt Small Quantity Generator (CESQG) Hazardous Waste.'' (EPA ICR No. 1608.07, OMB Control No. 2050–0152) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*). Before doing so, the EPA is soliciting public comments on specific aspects of the proposed information collection as described below. This is a proposed extension of the ICR, which is currently approved through April 30, 2015. An Agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

DATES: Comments must be submitted on or before February 9, 2015.

ADDRESSES: Submit your comments, referencing Docket ID No. EPA–HQ–RCRA–2014–0839, online using *www.regulations.gov* (our preferred method), by email to *rcra-docket@epa.gov* or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW., Washington, DC 20460.

EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

FOR FURTHER INFORMATION CONTACT: Craig Dufficy, Materials Recovery and Waste Management Division, Office of Resource Conservation and Recovery, mail code 5304P, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460; telephone number: 703–308–9037; fax number: 703–308–8686; email address: *Dufficy.craig@epa.gov.*

SUPPLEMENTARY INFORMATION: Supporting documents which explain in detail the information that the EPA will be collecting are available in the public docket for this ICR. The docket can be viewed online at *www.regulations.gov* or in person at the EPA Docket Center, WJC West, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The telephone number for the Docket Center is 202–566–1744. For additional information about EPA's public docket, visit *http://www.epa.gov/dockets.*

Pursuant to section 3506(c)(2)(A) of the PRA, the EPA is soliciting comments and information to enable it to: (i) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility; (ii) evaluate the accuracy of the Agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (iii) enhance the quality, utility, and clarity of the information to be collected; and (iv) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses. The EPA will consider the comments received and amend the ICR as appropriate. The final ICR package will then be submitted to OMB for review and approval. At that time, the EPA will issue another **Federal Register** notice to announce the submission of the ICR to OMB and the opportunity to submit additional comments to OMB.

Abstract: Section 4010(c) of the Resource Conservation and Recovery Act (RCRA) of 1976 requires that the EPA revise the landfill criteria promulgated under paragraph (1) of Section 4004(a) and Section 1008(a)(3). Section 4005(c) of RCRA, as amended by the Hazardous Solid Waste Amendments (HSWA) of 1984, requires states to develop and implement permit programs to ensure that MSWLFs and non-municipal, non-hazardous waste disposal units that receive household hazardous waste or CESQG hazardous waste are in compliance with the revised criteria for the design and operation of non-municipal, non-hazardous waste disposal units under 40 CFR part 257, subpart B and MSWLFs under 40 CFR part 258. (40 CFR part 257, subpart B and 40 CFR part 258 are henceforth referred to as the ''revised federal criteria''). Section 4005(c) of RCRA further mandates the EPA Administrator to determine the adequacy of state permit programs to ensure owner and/or operator compliance with the revised federal criteria. A state program that is deemed adequate to ensure compliance may afford flexibility to owners or operators in the approaches they use to meet federal requirements, significantly reducing the burden associated with compliance.

In response to the statutory requirement in § 4005(c), the EPA developed 40 CFR part 239, commonly referred to as the State Implementation Rule (SIR). The SIR describes the state application, the EPA review procedures and defines the elements of an adequate state permit program.

The collection of information from the state during the permit program adequacy determination process allows the EPA to evaluate whether a program for which approval is requested is appropriate in structure and authority to ensure owner or operator compliance with the revised federal criteria. The SIR does not require the use of a particular application form. Section 239.3 of the SIR, however, requires that all state applications contain the following five components:

(1) A transmittal letter requesting permit program approval.

(2) A narrative description of the state permit program, including a demonstration that the state's standards for non-municipal, non-hazardous waste disposal units that receive CESQG hazardous waste are technically comparable to the Part 257, Subpart B criteria and/or that its MSWLF standards are technically comparable to the Part 258 criteria.

(3) A legal certification demonstrating that the state has the authority to carry out the program.

(4) Copies of state laws, regulations, and guidance that the state believes demonstrate program adequacy.

(5) Copies of relevant state-tribal agreements if the state has negotiated

with a tribe for the implementation of a permit program for non-municipal, non-hazardous waste disposal units that receive CESQG hazardous waste and/or MSWLFs on tribal lands.

The EPA Administrator has delegated the authority to make determinations of adequacy, as contained in the statute, to the EPA Regional Administrator. The appropriate EPA Regional Office, therefore, will use the information provided by each state to determine whether the state's permit program satisfies the statutory test reflected in the requirements of 40 CFR part 239. In all cases, the information will be analyzed to determine the adequacy of the state's permit program for ensuring compliance with the federal revised criteria.

Form Numbers: None.

Respondents/affected entities: Entities potentially affected by this action are States.

Respondent's obligation to respond: Mandatory (RCRA § 4005(c)).

Estimated number of respondents: 12.

Frequency of response: On occasion.

Total estimated burden: 2,405 hours (per year). Burden is defined at 5 CFR 1320.03(b).

Total estimated cost: $128,268 (per year) All costs are labor costs, there are no capital/start-up or O&M costs associated with this ICR.

Changes in Estimates: There is no change of the 2,405 hours in the total estimated respondent burden compared to the ICR currently approved by OMB. This is a continuation of states revising or updating their state programs.

Dated: November 25, 2014.

Barnes Johnson,

Director, Office of Resource Conservation and Recovery.

[FR Doc. 2014–29087 Filed 12–10–14; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–RCRA–2014–0845; FRL–9920–37–OSWER]

Agency Information Collection Activities; Proposed Collection; Comment Request; Final Authorization for Hazardous Waste Management Programs

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA or Agency) is planning to submit an information collection request (ICR), Final Authorization for Hazardous Waste Management Programs (EPA ICR No. 0969.10, OMB Control No. 2050–0041) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*). Before doing so, the EPA is soliciting public comments on specific aspects of the proposed information collection as described below. This is a proposed extension of the ICR, which is currently approved through April 30, 2015. An Agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

DATES: Comments must be submitted on or before February 9, 2015.

ADDRESSES: Submit your comments, referencing by Docket ID No. EPA–HQ–RCRA–2014–0845, online using *www.regulations.gov* (our preferred method), by email to *rcra-docket@epa.gov,* or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

FOR FURTHER INFORMATION CONTACT Peggy Vyas, (mail code 5303P), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: 703–308–5411; fax number: 703–308–8433; email address: *vyas.peggy@epa.gov.*

SUPPLEMENTARY INFORMATION: Supporting documents which explain in detail the information that the EPA will be collecting are available in the public docket for this ICR. The docket can be viewed online at *www.regulations.gov* or in person at the EPA Docket Center, EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC. The telephone number for the Docket Center is 202–566–1744. For additional information about EPA's public docket, visit *http://www.epa.gov/dockets.*

Pursuant to section 3506(c)(2)(A) of the PRA, the EPA is soliciting comments and information to enable it to: (i) evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility; (ii) evaluate the accuracy of the Agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (iii) enhance the quality, utility, and clarity of the information to be collected; and (iv) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses. The EPA will consider the comments received and amend the ICR as appropriate. The final ICR package will then be submitted to OMB for review and approval. At that time, the EPA will issue another **Federal Register** notice to announce the submission of the ICR to OMB and the opportunity to submit additional comments to OMB.

Abstract: In order for a State to obtain final authorization for a State hazardous waste program or to revise its previously authorized program, it must submit an official application to the EPA Regional office for approval. The purpose of the application is to enable the EPA to properly determine whether the State's program meets the requirements of § 3006 of RCRA. A State with an approved program may voluntarily transfer program responsibilities to EPA by notifying the EPA of the proposed transfer, as required by section 271.23. Further, the EPA may withdraw a State's authorized program under section 271.23.

State program revision may be necessary when the controlling Federal or State statutory or regulatory authority is modified or supplemented. In the event that the State is revising its program by adopting new Federal requirements, the State shall prepare and submit modified revisions of the program description, Attorney General's statement, Memorandum of Agreement, or such other documents as the EPA determines to be necessary. The State shall inform the EPA of any proposed modifications to its basic statutory or regulatory authority in accordance with section 271.21. If a State is proposing to transfer all or any part of any program from the approved State agency to any other agency, it must notify the EPA in accordance with section 271.21 and submit revised organizational charts as required under section 271.6, in accordance with section 271.21. These paperwork requirements are mandatory under § 3006(a). The EPA will use the information submitted by the State in order to determine whether the State's program meets the statutory and

regulatory requirements for authorization.

Form Numbers: None.

Respondents/affected entities: Entities potentially affected by this action are States

Respondent's obligation to respond: Mandatory (RCRA § 3006(a))

Estimated number of respondents: 58

Frequency of response: Annual

Total estimated burden: 19,968 hours. Burden is defined at 5 CFR 1320.03(b)

Total estimated cost: $680,790, which includes $680,790 annualized labor costs and $0 annualized capital or O&M costs.

Changes in Estimates: The burden hours are likely to stay substantially the same.

Dated: November 25, 2014.

Barnes Johnson,

Director, Office of Resource Conservation and Recovery.

[FR Doc. 2014–29086 Filed 12–10–14; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OA–2007–0706; FRL -9920–36–OA]

Proposed Information Collection Request; Comment Request; State Small Business Stationary Source Technical and Environmental Compliance Assistance Programs (SBTCP) Annual Reporting Form (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency is planning to submit an information collection request (ICR), ''State Small Business Stationary Source Technical and Environmental Compliance Assistance Programs (SBTCP) Annual Reporting Form (Renewal)'' (EPA ICR No. 1748.10, OMB Control No. 2060–0337) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). Before doing so, EPA is soliciting public comments on specific aspects of the proposed information collection as described below. This is a proposed extension of the ICR, which is currently approved through May 31, 2015. An Agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

DATES: Comments must be submitted on or before February 9, 2015.

ADDRESSES: Submit your comments, referencing Docket ID No. EPA–HQ–OA–2007–0706 online using *www.regulations.gov* (our preferred method), by email to *oei.docket@epa.gov,*or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW., Washington, DC 20460.

EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

FOR FURTHER INFORMATION CONTACT: Paula Hoag, Office of Small Business Programs, (1230T), Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460; telephone number: 202–566–2496; fax number: 202–566–0266; email address: *hoag.paula@epa.gov.*

SUPPLEMENTARY INFORMATION: Supporting documents which explain in detail the information that the EPA will be collecting are available in the public docket for this ICR. The docket can be viewed online at *www.regulations.gov* or in person at the EPA Docket Center, WJC West, Room 3334, 1301 Constitution Ave., NW., Washington, DC. The telephone number for the Docket Center is 202–566–1744. For additional information about EPA's public docket, visit *http://www.epa.gov/dockets.*

Pursuant to section 3506(c)(2)(A) of the PRA, EPA is soliciting comments and information to enable it to: (i) evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility; (ii) evaluate the accuracy of the Agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (iii) enhance the quality, utility, and clarity of the information to be collected; and (iv) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses. EPA will consider the comments received and amend the ICR as appropriate. The final ICR package will then be submitted to OMB for review and approval. At that time, EPA will issue another **Federal Register** notice to announce the submission of the ICR to OMB and the opportunity to submit additional comments to OMB.

Abstract: As part of the Clean Air Act Amendments of 1990, the U.S. Congress included, as part of section 507, the requirements that each state establish a Small Business Stationary Source Technical and Environmental Compliance Assistance Program to assist small businesses in complying with the Act. These programs are generally known as Small Business Environmental Assistance Programs (SBEAPs). EPA's Small Business Ombudsman must oversee the overall 507 program and be able to provide the Congress with periodical reports on the effectiveness, difficulties encountered and other relevant information on the program. Each state will submit requested information to EPA for compilation and summarization. This collection of information is mandatory under Section 507(a), (d) and (e) of the Clean Air Act as amended in 1990, Public Law 101–549, November 15, 1990. Information that is collected is aggregated and is not of a confidential nature. None of the information collected by this action results in/or requests sensitive information of any nature from the states.

Form Numbers: None.

Respondents/affected entities: State and/or state appointed entities of the 507 program, usually college or university staff.

Respondent's obligation to respond: Mandatory under Section 507(a), (d) and (e) of the Clean Air Act as amended in 1990, Public Law 101–549, November 15, 1990.

Estimated number of respondents: 53 (total).

Frequency of response: Annual.

Total estimated burden: 2,120 hours (per year). Burden is defined at 5 CFR 1320.03(b)

Total estimated cost: $ 104,664 (per year), includes $0 annualized capital or operation & maintenance costs.

Changes in Estimates: There is no change in the total estimated respondent burden compared with the ICR currently approved by OMB. There is a possibility that the total estimated cost may increase slightly due to inflation prices and will be determined once final numbers are generated but generally speaking hours spent in responding to the data collection will not change.

Dated: November 20, 2014.

Kimberly Y. Patrick,

Acting Director, Office of Small Business Programs.

[FR Doc. 2014–29085 Filed 12–10–14; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9920–28–OAR]

Fuels and Fuel Additives: Request for Substantiations of Claims of Confidential Business Information (CBI) From Businesses That Have Submitted Reports and Transactional Information Under the Renewable Fuel Standard (RFS) Program

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: The U.S. Environmental Protection Agency (EPA or Agency) has received a request under the Freedom of Information Act (FOIA) for certain records submitted to EPA under the Renewable Fuel Standard (RFS) program between January 1, 2011 and November 2014. These records were submitted to EPA pursuant to the RFS program's annual reporting, quarterly reporting and transactional information reporting within EPA's Moderated Transaction System (EMTS). This notice is a request for substantiations of confidentiality claims from businesses that have submitted any or all of the information listed in this notice and are claiming the information as confidential business information (CBI). The procedures by which businesses may voluntarily substantiate claims of CBI in regard to the information at issue in the FOIA request are provided in this notice, which is referenced in the parties' joint briefing schedule in the case, *Perkins Coie LLP* v. *McCarthy,* Case 1:13-cv-01799 (D.D.C filed Nov. 11, 2013). EPA's Office of General Counsel (OGC) will review comments received in response to this notice in preparing a Final Confidentiality Determination under 40 CFR part 2, subpart B, to determine whether the information at issue should be released publicly in response to the FOIA request at issue in the above-referenced litigation. If OGC determines after reviewing the substantiations that some or all of the documents responsive to the FOIA request are not entitled to confidential treatment under 40 CFR part 2, and therefore should be released, EPA will provide notice of this determination by letter, prior to release, to businesses who have submitted the information, allowing such businesses 10 working days to respond, pursuant to 40 CFR 2.205(f).

DATES: Written comments must be postmarked or hand delivered to the address listed below, or emailed to the person listed in the **FOR FURTHER INFORMATION CONTACT** section, by January 9, 2015.

ADDRESSES: You [1] may submit your comments by any of the following methods: Email: *larson.ben@epa.gov*

U.S. Mail:

U.S. Environmental Protection Agency,
ATTN: Ben Larson,
Mail Code 6405A,
1200 Pennsylvania Ave. NW.,
Washington, DC 20460.

Commercial Delivery:

U.S. Environmental Protection Agency,
William Jefferson Clinton Building—North,
ATTN: Ben Larson,
Mail Code 6405A, Room 6520W,
1200 Pennsylvania Ave. NW.,
Washington, DC 20004.

Instructions: Address all comments to the person listed in the **FOR FURTHER INFORMATION CONTACT** section, postmarked, hand delivered or emailed by January 9, 2015.

FOR FURTHER INFORMATION CONTACT: Ben Larson, Compliance Division, Office of Transportation and Air Quality (MC–6405A), U.S. Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington DC 20460; telephone number: (202) 343–9565; email address: *larson.ben@epa.gov.*

SUPPLEMENTARY INFORMATION: *Worldwide Web (WWW).* In addition to being available in the **Federal Register**, an electronic copy of today's notice will also be available through the WWW. A copy of this notice will be posted on EPA's Renewable Fuel Standard notification Web site at: *http://www.epa.gov/otaq/fuels/renewablefuels/notices.htm.*

This request for substantiation is covered under OMB's Information Collection Request number 2020–0003.

Organization of this Document: The following outline is provided to aid in location information in this preamble.

I. General Information
A. Does this notice apply to me?
B. What should I consider as I prepare my comments to the EPA?
II. Background and Purpose of Notice
III. Description of Data Elements Requested by Category
A. Annual Compliance Report
B. Ownership of Renewable Identification Numbers Generated in Years 2012 and 2013
C. Transactional Information Contained in EPA's Moderated Transaction System
IV. Request for Comments

I. General Information

A. Does this notice apply to me?

This notice is directed to businesses that have submitted information under 40 CFR part 80 subpart M. If you have further questions regarding the applicability of this action to a particular party, after reviewing the remainder of this notice, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. The FOIA request does not identify by name any single company in its request for RFS documents.

B. What should I consider as I prepare my comments to the EPA?

1. Submitting Information Claimed as CBI in Response to This Notice

Clearly mark as ''CONFIDENTIAL'' any or all of the comments or information that you claim to be CBI that you submit in response to this notice. For CBI saved on a computer disc or CD ROM that you mail to the EPA, mark the outside of the disk or CD ROM as ''CONFIDENTIAL'' and then identify electronically within the disk or CD ROM the specific information that is claimed as CBI. Information marked as CBI will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

Do not submit information through email that you consider to be CBI or otherwise protected. Only send or deliver information identified as CBI to the mail or hand/courier delivery address listed within this notice.

Alternatively, businesses can submit example reports with example data filled in within each field. The business can use the example data as a tool for explaining its reasoning.

If you have any questions about CBI or the procedures for claiming CBI, please consult the person identified in the section within this notice marked **FOR FURTHER INFORMATION CONTACT**.

2. Tips for Preparing Your Comments

Follow all instructions in this notice and, if you are claiming information as CBI, please respond to each of the eleven questions listed within the ''Request for Comments'' section below. As necessary, please provide specific examples to illustrate your concerns and suggest alternatives, making any necessary references to applicable statutes, case law or regulations. Explain your views as clearly as possible,

[1] By ''you,'' EPA is referencing here and throughout this notice an authorized representative of a business that has submitted to EPA the information at issue in this notice.

avoiding the use of profanity or personal threats.

Make sure to submit your information and comments by the comment period deadline identified in the preceding section titled **DATES**. You may also provide the name, date, and **Federal Register** citation.

II. Background and Purpose of Notice

Background. The EPA's Office of Transportation and Air Quality (OTAQ) has responsibility for protecting public health and the environment by regulating air pollution from vehicles, engines, and the fuels used to operate them, and by encouraging travel choices that minimize emissions. To promote the use of fuels derived from renewable sources, Congress established the Renewable Fuel Standards (RFS) program in Section 211(o) of the Clean Air Act (the CAA or the Act). The CAA specifies increasing annual ''applicable volumes'' of four categories of renewable fuel—total renewable fuel, cellulosic biofuel, biomass-based diesel, and advanced biofuel—to be used in the transportation sector.[2] For purposes of the RFS program, renewable fuel must be derived from ''renewable biomass'' and meet other definitional requirements, including specified lifecycle greenhouse gas emissions reductions as compared to baseline petroleum fuel. The Act directs EPA to establish a compliance program and annual percentage standards to ensure that the applicable volumes of renewable fuel are used.

EPA implements the RFS through regulations established in 40 CFR part 80 subpart M. EPA requires the submission of compliance reporting information under §§ 80.1451 and 80.1452. Certain additional information must be submitted to EPA for facility registration, and for other purposes. See §§ 80.1449, 1450, 1464, 1465, 1466, 1467, 1469.

Purpose. EPA OTAQ has received a request under the Freedom of Information Act (FOIA), 5 U.S.C. 552, for certain records submitted to EPA under the RFS reporting requirements, including the Annual Compliance reports submitted by Obligated Parties; RIN Activity or Ownership by Quarter; and transactional information entered into the EPA's Moderated Transaction System (EMTS). The FOIA request does not identify by name any single company in its request for RFS documents. The specific data elements in these reports are defined further below under the section, ''Description of Data Elements Requested by Category.'' Companies submitting reports under the RFS program have claimed all or some of this information as confidential business information (CBI). In accordance with applicable EPA regulations, 40 CFR part 2, subpart B, the EPA has determined that some companies have asserted CBI claims, and that others might be expected to assert CBI claims, for some or all of the information sought through the FOIA request. Under EPA regulations at 40 CFR part 2, subpart B, the FOIA request has been initially denied to afford companies an opportunity to provide comments and information to substantiate a claim as described below. The FOIA request and corresponding CBI issues are the subject of litigation in federal district court in the District of Columbia, *Perkins Coie LLP* v. *McCarthy,* Case 1:13-cv-01799 (D.D.C filed Nov. 11, 2013).

In light of the large number of businesses involved that have made CBI claims or are expected to make CBI claims, EPA is proceeding using a multi-step process as described in the joint proposed briefing schedule in the above-noted case. First, a certain number of businesses have recently received formal requests by certified letter for substantiations, pursuant to 40 CFR 2.204(e). Second, this **Federal Register** notice is to provide the remaining businesses that supplied the information described in this notice with an opportunity to provide information in support of each respective business's confidentiality claims, as further directed below. This submission is not required and a business will not waive any claim by not submitting information in response to this **Federal Register** notice. The EPA's Office of General Counsel (OGC) will consider the responses received from all of the businesses that were contacted by direct letter and through this **Federal Register** notice and issue a final confidentiality determination that covers the information described in this notice. EPA anticipates that the final confidentiality determination for each business will be the same. As to those businesses that have submitted RFS information to EPA but did not receive one of the request letters for substantiation discussed above and chose not to provide information in response to this notice, the EPA anticipates providing determinations pursuant to 40 CFR 2.204(d)(2) and 2.205(f) to those businesses based on the determinations made for the businesses that provide substantiations. Each business will receive 10 working days' notice prior to release of any information that is not found to be confidential.

Therefore, EPA is providing you the opportunity to make the showings described below, with specific references to those portions of the information you consider to be CBI. Please note that each affected business need only substantiate its claims of confidentiality once during this process. EPA will not be sending out additional letters requesting substantiation following the publication of this notice. By the conclusion of this process, EPA will provide: (1) final confidentiality determinations to the businesses that have submitted responses to this notice or to any directly mailed substantiation request letters, and (2) notice, under 40 CFR 2.204(d)(2) and 2.205(f), to the other businesses on record who have submitted types of RFS information, if any, that EPA determines not to be confidential.

III. Description of Data Elements Requested by Category

EPA OGC will make a final confidentiality determination on the categories of information described under this section. The categories list the different data elements that an affected business may have submitted to EPA under the RFS program. Certain data elements listed below may not be relevant to every affected business.

A. Annual Compliance Report

Any obligated party described in § 80.1406 (refiners and importers of gasoline/diesel) or exporter of renewable fuel described in § 80.1430 must submit to EPA reports on an annual basis as described in § 80.1451(a)(1). The time period for the reports, which are responsive to the pending FOIA request, include those submitted from 2011 through November 2014. The format and exact data elements of the annual compliance report has varied between compliance years, but they include the information required by § 80.1451(a)(1), and the following general types of data elements:

Report Information

a. Report Name (RFS0303, RFS0302, etc)—Form ID for the RFS2 Annual Compliance Report;

b. Report Type (original or resubmission)—Indicates whether this is an original report or resubmission;

c. CBI (yes or no)—Specifies if the data contained within the report is being claimed as Confidential Business Information (CBI) under 40 CFR part 2, subpart B;

[2] Section 211(o)(7) provides EPA with authority to waive the statutory applicable volumes in whole or in part in certain specified circumstances.

d. Report Date—Date of report submission;

e. Compliance Year—Compliance period of the report.

Compliance Elements

f. Renewable Volume Obligation (RVO) Name—Indicates to which RVO types (Cellulosic Biofuel, Biomass-Based Diesel, Advanced Biofuel, Renewable Fuel) the reported compliance information is related;

g. Renewable Fuel Standard Value/Equivalence Value—The renewable fuel standards are defined at § 80.1405. For exporters of renewable fuel, the equivalence value for the exported renewable fuel is found at § 80.1415;

h. Cellulosic biofuel waiver credits payment method—The method by which payment has been submitted for cellulosic biofuel waiver credits, including pay.gov, fedwire, or U.S. Mail;

i. Cellulosic biofuel waiver credits ID—Transaction reference ID provided by the U.S. Treasury for purchase of the cellulosic biofuel waiver credits.

Compliance Activity and Status

j. Compliance Basis—How obligated parties indicate the compliance level, including as an Aggregated Importer, Aggregated Refiner, Exporter, or facility by facility;

k. If ''Refinery by Refinery'' selected for compliance basis, then each facility ID listed out in a separate row;

l. Renewable Fuel Export Type—For renewable fuel exporters, the type of renewable fuel exported;

m. Total volume of gasoline and diesel production and Renewable Fuel Exported;

n. Prior year deficit—Renewable Volume Obligation deficit from prior compliance year;

o. Current year deficit—Renewable Volume Obligation deficit to be carried into the next compliance year;

p. Renewable Volume Obligation—Total, in gallons, calculated by combining the non-renewable gasoline, non-renewable diesel, multiplying it by the annual standards, and combining the result with any prior-year deficit as described in § 80.1407;

q. Current year/Prior year RINs used for compliance (aggregated by D-code, RVO name, and compliance level);

r. Cellulosic biofuel waiver credits used.

B. Ownership of Renewable Identification Numbers Generated in Years 2012 and 2013

Producers and importers of renewable fuel generate renewable identification numbers, or ''RINs,'' for each gallon of renewable fuel they import or produce for use in the United States. RINs are assigned to batches of renewable fuel by producers and importers of such fuel, and typically separated from those batches by an obligated party or other entity that blends the renewable fuel into conventional fuel. Once separated, RINs may be kept for compliance or sold. Obligated parties comply with their renewable volume obligations by accumulating RINs and then retiring them to demonstrate annual compliance.

RIN ownership is tracked through EPA's Moderated Transaction System (EMTS). EMTS is a high-volume transaction system that tracks the full RIN lifecycle, including RIN generation, buy/sell, separation, and retirement. RIN ownership totals are continuously captured and maintained within this system.

In addition, companies also report RIN ownership totals through the quarterly compliance ''RIN Activity Report'' as required in § 80.1451(c)(1). The RIN Activity Report contains RINs owned at the start and end of each quarter for ''prior-year'' and ''current-year'' RINs.

This FOIA request seeks ownership information by company for RINs that were generated in years 2012 and 2013.

C. Transactional Information Contained in EPA's Moderated Transaction System

As described in the previous section, RFS transactions are entered into EMTS as required under § 80.1451(c)(1)(ii). Elements listed are referenced as they appear in the EMTS users guide posted at *http://www.epa.gov/otaq/fuels/renewablefuels/emtshtml/emtsdocuments.htm*. The time period for the reports, which are responsive to the pending FOIA request, include those submitted from 2011 through November 2014. The following list contains the data elements responsive to this FOIA.

RIN trades (data elements within a ''buy'' and ''sell'' transaction)—EMTS system records specific to RINs transferring from one trading partner to another, including specific data elements about the trade.

Company Identifying Information

a. Submitting Company Identifying Info—Company entering the RIN buy/sell transaction into EMTS;

b. EMTS Transaction Date—The date EMTS processed the transaction;

Trading Partner Identifying Information

c. Trading partner ID—The four digit EPA assigned ID of the company identified as the trading partner;

d. Trading partner Name—The name of the company identified as the trading partner.

Optional Information Provided to Trading Partner

e. PTD number [optional]—Number on the Product Transfer Document (used for transactions);

f. Matching Transaction Identifier [optional]—User-specified ID that can be used to match specific transactions (entering the EMTS Transaction ID of the received trade to be matched);

g. Public Supporting Document [optional]—Any public supporting text used by the company to share with its trading partner;

h. Public Supporting Document Number [optional]—Tracking/identification numbers that are associated with the public supporting document text;

i. Public Supporting Document [optional]—Any public supporting text used by the company to share with its trading partner;

j. Public Supporting Document Number [optional]—Tracking/identification numbers that are associated with the public supporting document text.

Compliance Activity

k. RIN quantity—Amount of RINs involved in the transaction;

l. Batch volume [conditional—required for assigned RINs]—Volume of batch fuel, in gallons, involved in the transaction;

m. Fuel Code/''D'' Code—Identifies the type of Fuel produced involved in the transaction;

n. Assignment Code—Status of the RINs (Assigned or Separated);

o. RIN Year—Generation year of the RINs;

p. [QAP Service Type Code]—** New in 4Q 2014—Indicates the Quality Assurance Provider (QAP) service associated with the RINs;

q. Buy/Sell Reason code—The reason the buy/sell transaction is taking place;

r. Price per RIN [conditional—required if Price per Gallon is not reported]—Price per individual RIN;

s. Price per Gallon [conditional—required if Price per RIN is not reported]—Price per individual gallon;

t. Transaction Detail Comment [conditional]—Comment provided by the user on the transaction;

u. RINs Information for non-FIFO trades [multiple, conditional—includes: Generate Organization ID, Generate Facility ID, and Batch Number]—Information provided by buyer/seller to select specific batches either at the producer level or down to the individual batch level.

Other Optional Submitter Provided Information

v. 1—Supporting Document [optional]—Information for the industry user to create user defined data to report supporting document identifiers;

w. 1—Supporting Document Number [optional]—ID number associated with the supporting document text;

x. 2—Supporting Document [optional]—Information for the industry user to create user defined data to report supporting document identifiers;

y. 2—Supporting Document Number [optional]—ID number associated with the supporting document text.

RIN generation transactions—EMTS system records specific to a registered renewable fuel producer assigning RINs to a batch of renewable fuel, including elements related to the renewable fuel production process.

Company Identifying Information

a. Submitting Company Identifying Info—Company entering the RIN generation transaction into EMTS;

b. EMTS Transaction Date—The date EMTS processed the transaction.

Compliance Activity

c. RIN Quantity—Quantity of RINs generated for the batch;

d. Batch volume—Total volume of the fuel batch in gallons;

e. Fuel Code/''D'' Code—Identifying the type of renewable fuel associated with the batch;

f. Production Process—Process used for producing the renewable fuel;

g. Fuel Category—The renewable fuel (ethanol, biogas, biodiesel, etc);

h. Fuel Production Date—Date the renewable fuel batch was produced

i. Denaturant Volume—The volume of non-renewable fuel added to a volume of ethanol to create the batch volume for a given batch number of renewable fuel;

j. Equivalence Value—A multiplier applied to the batch volume to determine the number of RINs that will be generated per gallon of renewable fuel produced. The equivalence value is directly related to fuel category code;

k. Production Source—Originating Organization—Four digit ID of the organization producing the renewable fuel;

l. Production Source—Originating Facility—Five digit ID of the production facility of the renewable fuel;

m. Batch number—Industry user assigned identification number for the batch of renewable fuel;

n. Production Source—Additional information (text box);

o. Feedstock—Feedstock used to produce the batch of renewable fuel;

p. Feedstock amount—Amount of feedstock used in the production of the batch of renewable fuel;

q. Feedstock—Additional Information (text box);

r. Co-product—Co-products created from the renewable fuel production process;

s. Co-product additional information—Comment provided by the industry user on the co-products produced;

t. [QAP Service Type Code]—** New in 4Q 2014—Quality Assurance Provider service type associated with the RINs;

u. Transaction Detail Comment—Comments provided by the industry user on the EMTS transaction.

Other Optional Submitter Provided Information

v. 1—Supporting Document [optional]—Information for the industry user to create user defined data to report supporting document identifiers;

w. 1—Supporting Document Number [optional]—ID number associated with the supporting document text;

x. 2—Supporting Document [optional]—Information for the industry user to create user defined data to report supporting document identifiers;

y. 2—Supporting Document Number [optional]—ID number associated with the supporting document text.

RIN separation transaction—EMTS system records specific to a RFS registered party separating RINs from renewable fuel, including elements related to the RIN quantity and why the party is separating RINs.

Company Identifying Information

a. Submitting Company Identifying Info—Company entering the RIN separation transaction into EMTS;

b. EMTS Transaction Date—The date EMTS processed the transaction;

Compliance Activity

c. RIN quantity—Quantity of RINs separated from the fuel;

d. Batch volume—Volume of renewable fuel involved in the transaction;

e. Fuel Code/''D'' Code—Identifying the type of renewable fuel;

f. Separate Reason Code—Reason for separating RINs from the renewable fuel;

g. Transaction Date—Date EMTS processes the transaction;

h. RIN Year—Year the RINs involved in the transaction were generated;

i. [QAP Service Type Code]—** New in 4Q 2014—Quality Assurance Provider service type associated with the RINs;

j. Blender Organization Identifier [conditional]—Company ID for upstream delegation for blending;

k. Blender Organization Name [conditional]—Company name for upstream delegation for blending;

l. Transaction Detail Comment [conditional]—User provided comments on the transaction;

m. RINs Information for non-FIFO trades [multiple, conditional—includes: Generate Organization ID, Generate Facility ID, and Batch Number]—Information provided by the Organization involved in the transaction to select specific batches either at the producer level or down to the individual batch level.

Other Optional Submitter Provided Information

n. 1—Supporting Document [optional]—Information for the industry user to create user defined data to report supporting document identifiers;

o. 1—Supporting Document Number [optional]—ID number associated with the supporting document text;

p. 2—Supporting Document [optional]—Information for the industry user to create user defined data to report supporting document identifiers;

q. 2—Supporting Document Number [optional]—ID number associated with the supporting document text.

RIN retirement transaction—EMTS system records specific to a RFS registered party using RINs for compliance or removing RINs from the RFS marketplace for other reasons, including elements related to the RIN quantity and why the party is retiring RINs.

Company Identifying Information

a. Submitting Company Identifying Info—Company entering the RIN retirement transaction into EMTS;

b. EMTS Transaction Date—The date EMTS processed the transaction.

Compliance Activity

c. RIN quantity—Amount of RINs retired;

d. Batch volume [conditional]—Amount of fuel in gallons involved in the retire transaction;

e. Fuel Code/''D'' Code—Identifying the type of renewable fuel;

f. Assignment Code—Status of RINs (assigned or separated);

g. RIN Year—Year RINs involved in the transaction were generated;

h. [QAP Service Type Code]—** New in 4Q 2014—Quality Assurance Provider service type associated with the RINs;

i. Retire Reason code—Reason for retiring the RINs;

j. Transaction Date—Date the EMTS system processes the transaction;

k. Compliance Year [conditional]—If retiring for annual compliance, the compliance year;

l. Compliance Level Code [conditional]—If retiring for annual compliance, the compliance level such as Refiner, Importer, or Exporter;

m. Compliance Facility Identifier [conditional]—If retiring for annual compliance and choosing to comply facility by facility, the five digit facility ID the RINs are being retired under;

n. Transaction Detail Comment [conditional]—Comments provided by the industry user on the EMTS transaction;

o. RINs Information for non-FIFO trades [multiple, conditional—includes: Generate Organization ID, Generate Facility ID, and Batch Number]—Information provided by the Organization involved in the transaction to select specific batches either at the producer level or down to the individual batch level.

Other Optional Submitter Provided Information

p. 1—Supporting Document [optional]—Information for the industry user to create user defined data to report supporting document identifiers;

q. 1—Supporting Document Number [optional]—ID number associated with the supporting document text;

r. 2—Supporting Document [optional]—Information for the industry user to create user defined data to report supporting document identifiers;

s. 2—Supporting Document Number [optional]—ID number associated with the supporting document text.

IV. Request for Comments

The purpose of this notice is to notify you, as an authorized representative of a business that has submitted information to the RFS program, that the EPA OGC will be making a final confidentiality determination concerning the information described within this notice that you have claimed or might be expected to claim as CBI. If you feel that some or all of the information is entitled to confidential treatment, you must make the showings below with specific reference to those portions of the information you consider confidential.

Please be specific when identifying and substantiating the information subject to your claim. Where your claim, as originally made at the time of submission to the Agency or as modified by your response to this letter, does not include all information on a page, please attach a copy of each such page with brackets around the text that you claim to be CBI. Any information not specifically identified as subject to a confidentiality claim and substantiated as such in your response to this letter may be disclosed to the requester without further notice to you. Please note that if a page, document, group, or class of documents claimed by you to be CBI contains a significant amount of information which the EPA OGC determines is not CBI, your CBI claim regarding that page, document, group, or class of documents may be denied.

For each item or class of information that you claim as CBI, please answer the following questions, giving as much detail as possible. Your comments in response to these questions will be used by the EPA to determine whether the information has been shown to be entitled to confidential treatment:

1. For what period of time do you request that the information be maintained as confidential, *e.g.*, until a certain date, until the occurrence of a specified event, or permanently? If the occurrence of a specific event will eliminate the need for confidentiality, please specify that event.

2. Information submitted to the EPA becomes stale over time. Why should the information you claim as confidential be protected for the time period specified in your answer to question #1?

3. What measures have you taken to protect the information claimed as confidential? Have you disclosed the information to anyone other than a governmental body or someone who is bound by an agreement not to disclose the information further? If so, why should the information be considered confidential?

4. Is the information contained in any publicly available material such as the Internet, publicly available databases, promotional publications, annual reports, or articles? If so, specify which.

5. Is there any means by which a member of the public could obtain access to the information? Is the information of a kind that you would customarily not release to the public?

6. Has any governmental body made a determination as to the confidentiality of the information? If so, please attach a copy of the determination.

7. For each item or category of information claimed as confidential, *explain with specificity* why release of the information is likely to cause substantial harm to your competitive position. Explain the specific nature of those harmful effects, why they should be viewed as substantial, and the causal relationship between disclosure and such harmful effects. How could your competitors make use of this information to your detriment?

8. Do you assert that the information is submitted on a voluntary or a mandatory basis? Please explain the reason for your assertion. If you assert that the information is voluntarily submitted information, please explain whether the information is the kind that would customarily not be released to the public.

9. Whether you assert the information as voluntary or involuntary, please address why disclosure of the information would tend to lessen the availability to the EPA of similar information in the future.

10. If you believe any information to be (*a*) trade secret(*s*), please so state and explain the reason for your belief. Please attach copies of those pages containing such information with brackets around the text that you claim to be (*a*) trade secret(*s*).

11. Explain any other issue you deem relevant (including, if pertinent, reasons why you believe that the information you claim to be CBI is not emission data or effluent data).

Please note that *you bear the burden of substantiating your confidentiality claim(s)*. Generalized or conclusory statements will be given little or no weight in EPA's determination on the confidentiality of the information you claim to be CBI. Your comments must be postmarked or hand delivered to this office, or emailed to the person listed in the **FOR FURTHER INFORMATION CONTACT** section, by January 9, 2015.

If you wish to claim any information that you provide in your response to this letter to itself be confidential, you must mark the response ''CONFIDENTIAL'' or with a similar designation, and must bracket all text in the response that you so claim. Information so designated will be disclosed by the EPA only to the extent allowed by, and by means of the procedures set forth in, 40 CFR part 2, subpart B. If you fail to claim the information provided in your response as confidential, it may be made available to the public without further notice to you.

Should you have any questions concerning this matter, contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

Authority: 40 CFR 2.204 et. al

Dated: December 4, 2014.

Byron Bunker,

Director, Compliance Division, Office of Transportation and Air Quality.

[FR Doc. 2014–29155 Filed 12–10–14; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL ELECTION COMMISSION

Sunshine Act Meeting

AGENCY: Federal Election Commission.

DATE & TIME: Tuesday December 9, 2014 At 10:00 a.m.

PLACE: 999 E Street NW., Washington, DC.

STATUS: This Meeting Will Be Closed To The Public.

Federal Register Notice of Previous Announcement—79 FR 72001

CHANGE IN THE MEETING:

The Commission also discussed:

Internal personnel rules and internal rules and practices.

Information the premature disclosure of which would be likely to have a considerable adverse effect on the implementation of a proposed Commission action.

This meeting will be continued at the conclusion of the open meeting on December 11, 2014.

* * * * *

PERSON TO CONTACT FOR INFORMATION: Judith Ingram, Press Officer, Telephone: (202) 694–1220.

Shelley E. Garr,

Deputy Secretary of the Commission.

[FR Doc. 2014–29222 Filed 12–9–14; 4:15 pm]

BILLING CODE 6715–01–P

FEDERAL ELECTION COMMISSION

Sunshine Act Meeting

AGENCY: Federal Election Commission.

DATE & TIME: Tuesday December 16, 2014 At 10:00 a.m.

PLACE: 999 E Street NW., Washington, DC

STATUS: This meeting will be closed to the public.

ITEMS TO BE DISCUSSED:

Compliance matters pursuant to 2 U.S.C. 437g.

Matters concerning participation in civil actions or proceedings or arbitration. Information the premature disclosure of which would be likely to have a considerable adverse effect on the implementation of a proposed Commission action.

* * * * *

PERSON TO CONTACT FOR INFORMATION: Judith Ingram, Press Officer, Telephone: (202) 694–1220.

Shelley E. Garr,

Deputy Secretary of the Commission.

[FR Doc. 2014–29221 Filed 12–9–14; 4:15 pm]

BILLING CODE 6715–01–P

FEDERAL MARITIME COMMISSION

Notice of Agreements Filed

The Commission hereby gives notice of the filing of the following agreements under the Shipping Act of 1984. Interested parties may submit comments on the agreements to the Secretary, Federal Maritime Commission, Washington, DC 20573, within twelve days of the date this notice appears in the **Federal Register**. Copies of the agreements are available through the Commission's Web site (*www.fmc.gov*) or by contacting the Office of Agreements at (202)-523–5793 or *tradeanalysis@fmc.gov.*

Agreement No.: 012043–003.

Title: MOL/HMM Japan/USWC Slot Charter Agreement.

Parties: Hyundai Merchant Marine Co., Ltd.; and Mitsui O.S.K. Lines, Ltd.

Filing Party: Robert Yoshitomi, Esq.; Nixon Peabody, LLP; 555 West Fifth Street, 46th Floor; Los Angeles, CA 90013.

Synopsis: The Amendment removes APL Co. Pte Ltd and American President Lines, Ltd. as parties, reduces the geographic scope of the Agreement, revises the name of the Agreement, and revises the termination provision and other terms.

Agreement No.: 012309.

Title: WWL/EUKOR/ARC/GLOVIS Cooperative Working Agreement.

Parties: Wallenius Wilhelmsen Logistics AS; EUKOR Car Carriers Inc.; Hyundai Glovis Co. Ltd.; and American Roll-on Roll-off Carrier, LLC.

Filing Party: Wayne Rohde, Esq; Cozen O'Connor; 1627 I Street NW., Suite 1100; Washington, DC 20006.

Synopsis: The Agreement would authorize the Parties to negotiate and/or enter into joint and/or individual contracts for marine terminal facilities and/or services.

Agreement No.: 012310.

Title: Crowley Latin America Services, LLC/Antillean Marine Shipping Corp. Space Charter Agreement.

Parties: Crowley Latin America Services, LLC and Antillean Marine Shipping Corp.

Filing Party: Wayne R. Rohde, Esq.; Cozen O'Connor, 1627 I Street NW., Washington, DC 20006.

Synopsis: The Agreement would authorize Crowley to charter space to Antillean in the trade between the U.S. Atlantic Coast and ports in the Dominican Republic and Haiti.

Agreement No.: 012311.

Title: HSDG/CCNI Agreement.

Parties: Hamburg Sudamerikanische Dampfschifffahrtsgesellschaft and Compania Chilena de Navegacion Interoceanica S.A.

Filing Party: Wayne R. Rohde, Esq.; Cozen O'Connor, 1627 I Street NW., Washington, DC 20006.

Synopsis: The Agreement would authorize certain on-going arrangements between the Parties that are ancillary to the acquisition of CCNI by HSDG, including setting forth the terms of a non-compete arrangement between the Parties.

By Order of the Federal Maritime Commission.

Dated: December 8, 2014

Rachel E. Dickon,

Assistant Secretary.

[FR Doc. 2014–29061 Filed 12–10–14; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

Sunshine Act Notice; Cancellation of Meeting Notice

December 9, 2014.

The following Commission meeting has been cancelled. No earlier announcement of the cancellation was possible.

TIME AND DATE: 10:00 a.m., Thursday, December 11, 2014

PLACE: The Richard V. Backley Hearing Room, Room 511N, 1331 Pennsylvania Avenue NW, Washington, DC 20004 (enter from F Street entrance)

STATUS: Open

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following in open session: *Secretary of Labor* v. *Excel Mining, LLC,* Docket No. KENT 2009–1368. (Issues include whether the Administrative Law Judge erred by affirming a ''significant and substantial'' designation and an ''unwarrantable failure to comply'' designation.)

Any person attending this meeting who requires special accessibility features and/or auxiliary aids, such as sign language interpreters, must inform the Commission in advance of those needs. Subject to 29 CFR 2706.150(a)(3) and § 2706.160(d).

CONTACT PERSON FOR MORE INFO: Emogene Johnson (202) 434–9935/(202) 708–9300 for TDD Relay/1–800–877–8339 for toll-free.

Sarah L. Stewart,

Deputy General Counsel.

[FR Doc. 2014–29150 Filed 12–9–14; 11:15 am]

BILLING CODE 6735–01–P

FEDERAL RESERVE SYSTEM

Proposed Agency Information Collection Activities; Comment Request

AGENCY: Board of Governors of the Federal Reserve System.

SUMMARY: On June 15, 1984, the Office of Management and Budget (OMB) delegated to the Board of Governors of the Federal Reserve System (Board) its approval authority under the Paperwork Reduction Act (PRA), pursuant to 5 CFR 1320.16, to approve of and assign OMB control numbers to collection of information requests and requirements conducted or sponsored by the Board under conditions set forth in 5 CFR part 1320 Appendix A.1. Board-approved collections of information are incorporated into the official OMB inventory of currently approved collections of information. Copies of the Paperwork Reduction Act Submission, supporting statements and approved collection of information instruments are placed into OMB's public docket files. The Federal Reserve may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

DATES: Comments must be submitted on or before February 9, 2015.

ADDRESSES: You may submit comments, identified by Regulation DD, by any of the following methods:

- *Agency Web site: http://www.federalreserve.gov.* Follow the instructions for submitting comments at *http://www.federalreserve.gov/apps/foia/proposedregs.aspx* .
- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Email: regs.comments@federalreserve.gov.* Include OMB number in the subject line of the message.
- *FAX:* (202) 452–3819 or (202) 452–3102.
- *Mail:* Robert deV. Frierson, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue NW., Washington, DC 20551.

All public comments are available from the Board's Web site at *http://www.federalreserve.gov/apps/foia/proposedregs.aspx* as submitted, unless modified for technical reasons. Accordingly, your comments will not be edited to remove any identifying or contact information. Public comments may also be viewed electronically or in paper form in Room MP–500 of the Board's Martin Building (20th and C Streets NW.) between 9:00 a.m. and 5:00 p.m. on weekdays.

Additionally, commenters may send a copy of their comments to the OMB Desk Officer—Shagufta Ahmed—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235 725 17th Street NW., Washington, DC 20503 or by fax to (202) 395–6974.

FOR FURTHER INFORMATION CONTACT: A copy of the PRA OMB submission, including the proposed reporting form and instructions, supporting statement, and other documentation will be placed into OMB's public docket files, once approved. These documents will also be made available on the Federal Reserve Board's public Web site at: *http://www.federalreserve.gov/apps/reportforms/review.aspx* or may be requested from the agency clearance officer, whose name appears below.

Federal Reserve Board Acting Clearance Officer—John Schmidt—Office of the Chief Data Officer, Board of Governors of the Federal Reserve System, Washington, DC 20551 (202) 452–3829. Telecommunications Device for the Deaf (TDD) users may contact (202) 263–4869, Board of Governors of the Federal Reserve System, Washington, DC 20551.

SUPPLEMENTARY INFORMATION:

Request for Comment on Information Collection Proposal

The following information collection, which is being handled under this delegated authority, has received initial Board approval and is hereby published for comment. At the end of the comment period, the proposed information collection, along with an analysis of comments and recommendations received, will be submitted to the Board for final approval under OMB delegated authority. Comments are invited on the following:

a. Whether the proposed collection of information is necessary for the proper performance of the Federal Reserve's functions; including whether the information has practical utility;

b. The accuracy of the Federal Reserve's estimate of the burden of the proposed information collection, including the validity of the methodology and assumptions used;

c. Ways to enhance the quality, utility, and clarity of the information to be collected;

d. Ways to minimize the burden of information collection on respondents, including through the use of automated collection techniques or other forms of information technology; and

e. Estimates of capital or start up costs and costs of operation, maintenance, and purchase of services to provide information.

Proposal to approve under OMB delegated authority the extension for three years, without revision, of the following information collection:

Report title: Disclosure Requirements in Connection with Regulation DD (Truth in Savings Act).

Agency form number: Regulation DD.

OMB control number: 7100–0271.

Frequency: Monthly.

Reporters: State member banks, branches & agencies of foreign banks, commercial lending companies, and Edge Act or agreement corporations.

Estimated annual reporting hours: Account disclosures: 12,504 hours; Change in terms notices: 18,756 hours; Notices prior to maturity: 18,756 hours; Periodic statement disclosure: 100,032 hours; and Advertising: 6,252 hours.

Estimated average hours per response: Account disclosures: 1 hour; Change in terms notices: 1.5 hours; Notices prior to maturity: 1.5 hours; Periodic statement disclosure: 8 hours; and Advertising: 30 minutes.

Number of respondents: 1,042.

General description of report: This information collection is mandatory pursuant section 269 of Truth in Savings Act (TISA) (12 U.S.C. 4308), which authorizes the Consumer Financial Protection Bureau (CFPB) to issue regulations to carry out the provisions of the act. The Board's imposition of the disclosure requirements on Federal Reserve supervised institutions is authorized by the Dodd-Frank amendments to TISA (12 U.S.C. 4309), and the provisions of Regulation DD (12 CFR 1030.1(a), 1030.2(j)). An institution's disclosure obligations under Regulation DD are mandatory. The Federal Reserve does not collect any information; therefore, no issue of confidentiality arises.

Abstract: TISA was contained in the Federal Deposit Insurance Corporation Improvement Act of 1991. The purpose of TISA and its implementing regulation is to assist consumers in comparing deposit accounts offered by institutions, principally through the disclosure of fees, the annual percentage yield (APY), and other account terms. TISA requires depository institutions to disclose key terms for deposit accounts at account opening, upon request, when changes in terms occur, and in periodic statements. It also includes rules about advertising for deposit accounts. TISA does not provide exemptions from compliance for small institutions.

On July 21, 2011, rulemaking authority for TISA was transferred from

the Board to the CFPB under the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (Dodd-Frank Act). In December 2011, the CFPB published an interim final rule establishing its own Regulation DD to implement TISA at 12 CFR part 1030 that substantially duplicated the Board's Regulation DD. The Board repealed its version of Regulation DD (12 CFR part 230) effective June 30, 2014.

Board of Governors of the Federal Reserve System, December 8, 2014.

Robert deV. Frierson,

Secretary of the Board.

[FR Doc. 2014–29063 Filed 12–10–14; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire shares of a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than December 29, 2014.

A. Federal Reserve Bank of Kansas City (Dennis Denney, Assistant Vice President) 1 Memorial Drive, Kansas City, Missouri 64198–0001:

1. *The JCR 2015 LFG Trust and Joshua C. Rowland, Kansas City, Missouri, individually and as co-trustee, of the JCR 2015 LFG Trust,* Kansas City, Missouri, to acquire voting shares of Lead Financial Group, Inc., and thereby indirectly acquire voting shares of Lead Bank, both in Garden City, Missouri.

Board of Governors of the Federal Reserve System, December 8, 2014.

Michael J. Lewandowski,

Associate Secretary of the Board.

[FR Doc. 2014–29042 Filed 12–10–14; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Formations of, Acquisitions by, and Mergers of Bank Holding Companies; Correction

This notice corrects a notice (FR Doc. 28433) published on page 71785 of the issue for Wednesday, December 3, 2014.

Under the Federal Reserve Bank of St. Louis heading, the entry for *Bryon B. Webb, III,* Emden, Missouri, as trustee of the Byron B. Webb, III Separate Property Revocable Trust, dated April 26, 2004, and Victoria Webb Sack, Del Mar, California, as trustee of the Victoria Webb Sack Separate Property Revocable Trust, dated June 12, 2008, is revised to read as follows:

A. Federal Reserve Bank of St. Louis (Yvonne Sparks, Community Development Officer) P.O. Box 442, St. Louis, Missouri 63166–2034:

1. *Bryon B. Webb, III, Emden, Missouri, as trustee of the Byron B. Webb, III Separate Property Revocable Trust, dated April 26, 2004, and Victoria Webb Sack, Del Mar, California, as trustee of the Victoria Webb Sack Separate Property Revocable Trust, dated June 12, 2008, individually and as members of a family control group;* to retain and acquire additional voting shares of Byron B. Webb, Inc., and thereby indirectly retain and acquire additional voting shares of Homebank, both in Palmyra, Missouri.

Comments on this application must be received by December 15, 2014.

Board of Governors of the Federal Reserve System, December 8, 2014.

Michael J. Lewandowski,

Associate Secretary of the Board.

[FR Doc. 2014–29043 Filed 12–10–14; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The applications will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than January 5, 2015.

A. Federal Reserve Bank of Minneapolis (Jacqueline K. Brunmeier, Assistant Vice President) 90 Hennepin Avenue, Minneapolis, Minnesota 55480–0291:

1. *Centra Ventures, Inc.,* Foley, Minnesota; to acquire 100 percent of the voting shares of Community Pride Bank Corporation, Ham Lake, Minnesota, and thereby indirectly acquire voting shares of Community Pride Bank, Isanti, Minnesota.

Board of Governors of the Federal Reserve System, December 8, 2014.

Michael J. Lewandowski,

Associate Secretary of the Board.

[FR Doc. 2014–29041 Filed 12–10–14; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL TRADE COMMISSION

Granting of Request for Early Termination of the Waiting Period Under the Premerger Notification Rules

Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Federal Trade Commission and the Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register**.

The following transactions were granted early termination—on the dates indicated—of the waiting period provided by law and the premerger

notification rules. The listing for each transaction includes the transaction number and the parties to the transaction. The grants were made by the Federal Trade Commission and the Assistant Attorney General for the Antitrust Division of the Department of Justice. Neither agency intends to take any action with respect to these proposed acquisitions during the applicable waiting period.

EARLY TERMINATIONS GRANTED

[November 1, 2014 thru November 28, 2014]

11/03/2014:		
20150053	G	The Middleby Corporation; Linsalata Capital Partners Fund IV, L.P.; The Middleby Corporation.
20150061	G	Eric Mandelblatt c/o Soroban Capital Partners LLC; Axiall Corporation; Eric Mandelblatt c/o Soroban Capital Partners LLC.
20150116	G	China Everbright Limited; The Porter Irrevocable Trust, dated October 16, 2014; China Everbright Limited.
11/04/2014:		
20150095	G	Catamaran Corporation; Salveo Specialty Pharmacy, Inc.; Catamaran Corporation.
20150098	G	Johnson & Johnson; Aduro Biotech, Inc.; Johnson & Johnson.
20150104	G	Targa Resources Partners LP; Atlas Pipeline Partners, L.P.; Targa Resources Partners LP.
11/05/2014:		
20150107	G	CDC Holdings, L.P.; Xand Holdings, LLC; CDC Holdings, L.P.
11/07/2014:		
20141553	G	Dynegy Inc.; EquiPower Resources Corp.; Dynegy Inc.
20141554	G	Dynegy Inc.; Energy Capital Partners II–A, L.P.; Dynegy Inc.
20141555	G	Dynegy Inc.; Duke Energy Corporation; Dynegy Inc.
20150067	G	Vista Equity Partners Fund V, L.P.; NAVEX Global Holding Company; Vista Equity Partners Fund V, L.P.
20150097	G	Archer-Daniels-Midland Company; Marathon Fund Limited Partnership V; Archer-Daniels-Midland Company.
20150109	G	Vista Equity Partners Fund V, L.P.; Welsh, Carson, Anderson & Stowe X, L.P.; Vista Equity Partners Fund V, L.P.
20150122	G	Eurazeo S.A.; Fantasy Flight Publishing, Inc.; Eurazeo S.A.
20150123	G	Permira IV Continuing L.P. 2; Riverside Capital Appreciation Fund V, L.P.; Permira IV Continuing L.P. 2.
20150124	G	Onex Partners III LP; MCMC Holdings, LLC; Onex Partners III LP.
20150125	G	Southwestern Energy Company; Chesapeake Energy Corporation; Southwestern Energy Company.
20150138	G	TPG VI DE AIV II, L.P.; Creative Artists Agency Holdings, LLC; TPG VI DE AIV L.P.
20150140	G	Providence Equity Partners VI–A L.P.; TPG Partners VI, L.P.; Providence Equity Partners VI–A L.P.
11/10/2014:		
20141521	G	Ingersoll-Rand plc; Cameron International Corporation; Ingersoll-Rand plc.
20150051	G	Butler Group Holdings, Inc.; M.D. On-Line, Inc.; Butler Group Holdings, Inc.
20150136	G	Signature Group Holdings, Inc.; Aleris Corporation; Signature Group Holdings, Inc.
11/12/2014:		
20150112	G	Avis Budget Group, Inc.; JMM, LLC; Avis Budget Group, Inc.
20150127	G	ONEOK Partners, L.P.; Chevron Corporation; ONEOK Partners, L.P.
11/13/2014:		
20150059	G	New York-Presbyterian Foundation, Inc.; Westchester Putnam Health Management System, Inc.; New York-Presbyterian Foundation, Inc.
20150102	G	New Mountain Partners IV, L.P.; ABRY Partners V, L.P.; New Mountain Partners IV, L.P.
20150115	G	RLJ Equity Partners Fund I, L.P.; Shamrock Capital Growth Fund III, L.P.; RLJ Equity Partners Fund I, L.P.
20150134	G	Progress Software Corporation; Telerik AD; Progress Software Corporation.
20150152	G	FTS International, Inc.; Westerman Interests, Inc.; FTS International, Inc.
11/14/2014:		
20141606	G	Wizard Parent LLC; Micro Focus International plc; Wizard Parent LLC.
20141607	G	Micro Focus International plc; Wizard Parent LLC; Micro Focus International plc.
20150060	G	TGC Industries, Inc.; Dawson Geophysical Company; TGC Industries, Inc.
20150139	G	Roche Holding Ltd; NewLink Genetics Corporation; Roche Holding Ltd.
20150147	G	UnitedHealth Group, Inc.; Alere Inc.; UnitedHealth Group, Inc.
20150151	G	Thoma Bravo Fund X, L.P.; Primus Capital Fund VI, LP; Thoma Bravo Fund X, L.P.
11/17/2014:		
20141559	G	Cargill Incorporated; Archer-Daniels-Midland Company; Cargill Incorporated.
20150154	G	Anadarko Petroleum Corporation; EnCap Energy Infrastructure Fund, L.P.; Anadarko Petroleum Corporation.
20150160	G	Carlyle Partners VI Cayman, L.P.; Dealogic (Holdings) plc; Carlyle Partners VI Cayman, L.P.
20150167	G	SunEdison, Inc.; Capital Dynamics US Solar Energy A, L.P; SunEdison, Inc.
20150171	G	Secondary Opportunities Fund III, LP; Long Point Capital Fund II, L.P.; Secondary Opportunities Fund III, LP.
20150172	G	Vijay Goradia; Ashland Inc.; Vijay Goradia
20150174	G	3i Group plc; Industrial Growth Partners III, L.P.; 3i Group plc.
20150175	G	OEC Holdings 4 L.P.; MidOcean Partners III, L.P.; OEC Holdings 4 L.P.
20150184	G	Aurobindo Pharma Limited; Natrol Holdings, Inc. (debtor-in-possession); Aurobindo Pharma Limited.
20150186	G	ICV Partners III, L.P.; Natrol Holdings, Inc. (debtor-in-possession); ICV Partners III, L.P.
11/18/2014:		
20141600	G	Cognizant Technology Solutions Corporation; Apax Europe VII–B, L.P.; Cognizant Technology Solutions Corporation.
20150078	G	Endo International plc; Auxilium Pharmaceuticals, Inc.; Endo International plc.
20150141	G	Danaher Corporation; GTCR Fund IX/A, L.P.; Danaher Corporation.
20150142	G	Fresenius Medical Care AG & Co. KGaA AEA Investors 2006 Fund L.P.; Fresenius Medical Care AG & Co. KGaA.
20150168	G	Riverstone Global Energy and Power Fund V, L.P.; Intervale Capital Fund, L.P.; Riverstone Global Energy and Power Fund V, L.P.

EARLY TERMINATIONS GRANTED—Continued

[November 1, 2014 thru November 28, 2014]

20150195	G	FFL/EM Holdings, LLC; Dr. H. Douglas Barnes; FFL/EM Holdings, ITC.
11/19/2014:		
20141588	G	Thoma Bravo Fund XI, L.P.; Compuware Corporation; Thoma Bravo Fund XI, L.P.
20150146	G	BAE Systems plc; Perimeter Internetworking Corp.; BAE Systems plc.
20150157	G	Green Equity Investors VI, L.P.; HP V AIV–4, L.P.; Green Equity Investors VI, L.P.
20150170	G	HGGC Fund II, L.P.; SSI/Opinionology Newco LLC; HGGC Fund II, L.P.
20150182	G	Platform Specialty Products Corporation; Permira IV L.P. 2; Platform Specialty Products Corporation.
20150185	G	DTE Energy Co.; LS Power Equity Partners II, L.P.; DTE Energy Co.
20150188	G	Littlejohn Fund V, L.P.; Lindsay Goldberg III L.P.; Littlejohn Fund V, L.P.
20150189	G	Hercules VB Holdings, Inc.; Herff Jones, Inc.; Hercules VB Holdings, Inc.
11/20/2014:		
20150131	G	Mr. Madhava Reddy; CareTech Solutions, Inc.; Mr. Madhava Reddy.
20150179	G	Aetna Inc.; bSwift LLC; Aetna Inc.
20150192	G	Schlumberger N.V.; Don Carruth; Schlumberger N.V.
11/21/2014:		
20150144	G	Saudi Arabian Oil Company; S-Oil Corporation; Saudi Arabian Oil Company.
20150158	G	Lockheed Martin Corporation; Albert Nardslico; Lockheed Martin Corporation.
20150161	G	DI Parent, LP; Distribution International Holdings, LLC; DI Parent, LP.
20150181	G	Mitsubishi Estate Co., Ltd.; Michael A. Ruane; Mitsubishi Estate Co., Ltd.
20150187	G	Wind Point Partners VII–A, L.P.; KIPB Group Holdings, Inc.; Wind Point Partners VII–A, L.P.
20150194	G	EQT VI (No.1) Limited Partnership; Siemens AG; EQT VI (No.1) Limited Partnership.
20150210	G	Greenbriar Equity Fund III, L.P.; Robert W. Munch and Judith A. Munch; Greenbriar Equity Fund L.P.
20150212	G	Timothy P. Horne; 2003 Riverside Capital Appreciation Fund, L.P.; Timothy P. Horne.
20150215	G	OEC Holdings 4 L.P.; Platinum Equity Capital SPL Partners, L.P.; OEC Holdings 4 L.P.
20150217	G	Scott Rudolph; Natrol Holdings, Inc. (debtor-in-possession); Scott Rudolph.
11/24/2014:		
20150199	G	General Electric Company; The Resolute Fund II SIE, L.P.; General Electric Company.
20150206	G	ArcLight Energy Partners Fund V, L.P.; Sempra Energy; ArcLight Energy Partners Fund V, L.P.
11/25/2014:		
20150013	G	CVS Holdings I, LLC; Stephen Bolick; CVS Holdings I, LLC.
20150155	G	Permira V L.P. 2; Metalogix H&S Holdings Ltd.; Permira V L.P. 2.
20150223	G	American Capital Equity III, LP; Schulman IRB Holdings LP; American Capital Equity III, LP.
11/26/2014:		
20141011	G	GlaxoSmithKline plc; Leo Constellation Limited; GlaxoSmithKline plc.
20141013	G	GlaxoSmithKline plc; Novartis AG; GlaxoSmithKline plc.

FOR FURTHER INFORMATION CONTACT: Renee Chapman, Contact Representative or Theresa Kingsberry, Legal Assistant, Federal Trade Commission, Premerger Notification Office, Bureau of Competition, Room CC–5301, Washington, DC 20024, (202) 326–3100.

By Direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 2014–28940 Filed 12–10–14; 8:45 am]

BILLING CODE 6750–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day-15–15GD]

Proposed Data Collections Submitted for Public Comment and Recommendations

The Centers for Disease Control and Prevention (CDC), as part of its continuing effort to reduce public burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995. To request more information on the below proposed project or to obtain a copy of the information collection plan and instruments, call 404–639–7570 or send comments to Leroy A. Richardson, 1600 Clifton Road, MS–D74, Atlanta, GA 30333 or send an email to *omb@cdc.gov.*

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget (OMB) approval. Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected;(d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; to develop, acquire, install and utilize technology and systems for the purpose of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information, to search data sources, to complete and review the collection of information; and to transmit or otherwise disclose the information. Written comments should be received within 60 days of this notice.

Proposed Project

Emergency Self Escape for Coal Miners—New—National Institute for Occupational Safety and Health (NIOSH), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

The Centers for Disease Control and Prevention's (CDC) mission is to promote health and quality of life by preventing and controlling disease, injury, and disability. The National Institute for Occupational Safety and Health (NIOSH) provides national and world leadership to prevent work-related illness, injury, disability, and death by gathering information, conducting scientific research, and translating knowledge gained into products and services. NIOSH's mission is critical to the health and safety of every American worker. The Office of Mine Safety and Health Research (OMSHR), one of the preeminent mining research laboratories in the world, is focused on occupational health and safety research for mine workers.

Recent research by the National Academy of Sciences (NAS) has called for a detailed, formal task analysis of mine self-escape (National Research Council, 2013). Such an analysis should identify the knowledge, skills, abilities, and other attributes (KSAOs) needed by mine personnel in the event of a mine disaster to successfully complete an emergency self-escape. This analysis will identify gaps between worker demands and capabilities, and propose recommendations to either minimize those gaps or enhance existing systems (*e.g.,* communications, training, technology).

The purpose of the project is to enhance the ability of miners to escape from underground coal mines in the event of a fire, explosion, collapse of the mine structure, or flooding of the area by toxic gas or water. To escape, miners need to perform a set of tasks that apply specific knowledge and skills in moving through the mine, avoiding dangers, and using protective equipment. The project will identify the tasks, knowledge and skills, procedures, equipment, communications, and physical requirements of self-escape. The results are expected to lead to recommendations for improvements to task requirements and procedures, equipment, training and communication processes.

NIOSH proposes this three-year study to better understand the requirements of emergency self-escape and to answer the following questions:

- What tasks (and critical tasks) do miners perform during self-escape?
- What knowledge beyond that needed to perform normal, routine mining tasks do miners require to facilitate successful self-escape?
- What are the cognitive requirements (such as reasoning, or weighing and deciding among alternatives, recognizing when a course of action is not producing the intended results) beyond that needed to perform normal, routine mining tasks?
- What other cognitive abilities or other cognitive competencies are needed?
- What gaps exist between what miners are required to do for self-escape and their capabilities?
- How can self-escape be improved by redesigning, eliminating, or modifying tasks or training, or by altering or introducing specific technologies/tools?

To answer these questions, we will use a task analysis study design that utilizes a multiple-method approach, to include (a) review of available research, (b) interviews and focus group meetings with participants, and (c) unobtrusive observation (*e.g.,* of drills). During interviews and focus groups, targeted questions are asked to elicit the level and type of desired information. This system of collecting information is ''active'' in that participants are presented stimuli (*e.g.,* disaster scenarios, worker roles) and asked directly to provide their perceptions (*e.g.,* of tasks or cognitive requirements needed to accomplish self-escape in that disaster). Observation checklists have been developed to capture relevant information during the unobtrusive naturalistic observations of self-escape drills. These data are then organized, collated, and re-presented to participants for confirmation of accuracy. Recommendations are generated based on study findings, related research and practices, and logical inference.

Participants will be mining personnel drawn from two operating coal mines, one large and one smaller mine, to represent the variety within the industry. The data collection schedule (*e.g.,* timing and duration of interviews and focus groups) will be modified as needed to minimize disruption to mine operations. No more than 30 miner volunteers will participate in the study over three years. Minimal time (< 5 minutes each) will be spent in recruitment and obtaining informed consent. Semi-structured interviews with mine personnel will require 1.5–2 hours of their time depending on the interview. Focus group sessions will require approximately 12 hours of their time total but will be executed in smaller blocks of time. Observation of drills will occur as part of normal mine operations and will not result in any additional burden on the respondents. All participants will be between the ages of 18 and 75, currently employed, and living in the United States.

There is no cost to respondents other than their time.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondent	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden hours
Underground coal miners	Recruitment Script	30	1	5/60	3
Underground coal miners	Informed Consent	30	1	5/60	3
Underground coal miners	Initial Interviews	6	1	90/60	9
Underground coal miners	Cognitive Task Analysis Interviews	12	2	2	48
Underground coal miners	Initial focus group sessions	12	6	2	144
Underground coal miners	Hierarchical Task Analysis focus group sessions.	12	6	2	144
Total					351

Leroy A. Richardson,

Chief, Information Collection Review Office, Office of Scientific Integrity, Office of the Associate Director for Science, Office of the Director, Centers for Disease Control and Prevention.

[FR Doc. 2014–29047 Filed 12–10–14; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–15–15GE]

Proposed Data Collections Submitted for Public Comment and Recommendations

The Centers for Disease Control and Prevention (CDC), as part of its continuing effort to reduce public burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995. To request more information on the below proposed project or to obtain a copy of the information collection plan and instruments, call 404–639–7570 or send comments to Leroy A. Richardson, 1600 Clifton Road, MS–D74, Atlanta, GA 30333 or send an email to *omb@cdc.gov.*

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget (OMB) approval. Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; to develop, acquire, install and utilize technology and systems for the purpose of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information, to search data sources, to complete and review the collection of information; and to transmit or otherwise disclose the information. Written comments should be received within 60 days of this notice.

Proposed Project

Improving the Impact of Laboratory Practice Guidelines: A New Paradigm for Metrics—Clinical and Laboratory Standards Institute—NEW—Center for Surveillance, Epidemiology and Laboratory Services (CSELS), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

The Centers for Disease Control and Prevention is funding three 5-year projects collectively entitled ''Improving the Impact of Laboratory Practice Guidelines: A New Paradigm for Metrics''. An ''LPG'' is defined as written recommendations for voluntary, standardized approaches for medical laboratory testing that takes into account processes for test selection, sample procurement and processing, analytical methods, and results reporting for effective diagnosis and management of disease and health conditions. LPGs may be disseminated to, and used by, laboratorians and clinicians to assist with test selection and test result interpretation. The overall purpose of these cooperative agreements is to increase the effectiveness of LPGs by defining measures and collecting information to inform better LPG creation, revision, dissemination, promotion, uptake, and impact on clinical testing and public health. The project will explore how these processes and their impediments and facilitators differ among various intended users of LPGs. Through this demonstration project, CDC seeks to understand how to customize LPG creation and promotion to better serve these intended users of LPGs. An important goal is to help organizations that sponsor the development of LPGs create a sustainable approach for continuous quality improvement to evaluate and improve an LPG's impact through better collection of information.

The CDC selected three organizations that currently create and disseminate LPGs to support activities under a cooperative agreement funding mechanism to improve the impact of their LPGs. The American Society for Microbiology, the Clinical and Laboratory Standards Institute (CLSI), and the College of American Pathologists, will each use their LPGs as models to better understand how to improve uptake and impact of these and future LPGs. Only the CLSI submission will be described in this notice.

Specifically, the CLSI project will address two LPGs that are important to clinical testing and have a high public health impact: *POCT12, Point-of-Care Blood Glucose Testing in Acute and Chronic Care Facilities* and *POCT13, Glucose Monitoring in Settings without Laboratory Support.* These LPGs provide guidance and recommendations for personnel monitoring patient glucose levels at sites that have access to a hospital laboratory as well as locations, such as physician offices or nursing homes that do not have an on-site moderate or high complexity laboratory. It is expected that as a result of sustained improvements in the process of creating and updating these clinical LPGs, public health, which depends upon accurate and appropriate laboratory testing guided by the use of LPGs, will also generally benefit. The intended users of the CLSI's *POCT12* and *POCT13* LPGs will include point-of-care coordinators, clinical laboratory directors, medical technologists, nurses, and medical doctors.

The CLSI plans to collect information using the same survey instrument, ''Fingerstick Glucose Survey'' (FGS), on three separate occasions. During the first information collection (FGS1), all targeted respondents will be asked to complete the survey. Respondents who indicate that they are not familiar with either *POCT12* or *POCT13* will be asked to provide an email address and offered a free copy of the applicable LPG. This subset of respondents will be asked to complete the same survey (FGS2) 4–6 months after receiving the free LPG. After analysis of the information collected during the first two surveys, CLSI will make improvements to *POCT12* and *POCT13,* such as provision of educational materials or helpful products such as quality control logs, and may also alter their marketing campaigns to address issues related to awareness and use of CLSI documents.

The third survey (FGS3) will then be sent to all targeted respondents approximately 2.5 years after the first survey to obtain information that can be used to evaluate the impact of these improvements. Respondents that received a free copy of *POCT12* or *POCT13* following the first survey will also be contacted by email and asked to take the third survey.

A link to the survey will be distributed to all targeted respondents either by email or postcard. The CLSI

will solicit participation from physician office laboratories, Department of Defense laboratories, and hospitals that offer point-of-care glucose testing. Participants will be recruited by COLA, the Joint Commission and a Point-of-Care Coordinator network, who have agreed to distribute links to the survey through their membership mailing lists. In addition, participants will also be solicited through mailing lists purchased by CLSI from Clinscan and the American Hospital Association. Clinical sites offering point-of-care glucose testing in the Department of Defense medical system will also be asked to participate through the Department of Defense Clinical Laboratory Improvement Program (CLIP). In order to obtain the needed number of respondents for a statistically valid study, additional laboratories, selected at random from a database of Clinical Laboratory Improvement Amendment (CLIA) certificate holders, will also be solicited. The survey will contain instructions to direct it to the individual in each laboratory responsible for the development or revision of procedures for fingerstick glucose testing. Directing the survey to the individual with this specific responsibility will help to ensure that only one response will be obtained from each participating laboratory. Respondents include point-of-care coordinators, clinical laboratory directors, managers, and supervisors, medical technologists, nurses, and medical doctors.

The CLSI hopes to achieve an 80% response rate with their laboratory information collections, or 24,000 out of about 30,000 potential respondents. The second survey will occur approximately 4–6 months after the initial survey and will only target responders from the first survey that received a complimentary copy of one of the LPG documents. CLSI anticipates that approximately 12,000 participants will be asked to take the second survey. Approximately two and a half years after the initial survey, the same survey will be sent to the same laboratories as the first survey (*i.e.* we will solicit approximately 30,000 potential respondents and expect about 24,000 individuals to take the survey). The third survey will measure the impact of the modifications to the documents and marketing strategy made based on the data collected from the first 2 surveys. The response rate for all surveys will be maximized by repeated reminders using the same channel that will be used to distribute the survey. All targeted laboratories will receive an email or postcard approximately one month before distribution of the survey. This letter will describe the survey and our purpose for collecting information. Another email or post card with a link to the survey will be sent to the same targeted laboratories. We also plan to resend the link to the survey to all targeted laboratories approximately one month later to remind them of the survey.

The CLSI believes completion of the survey will take approximately 15 minutes. The survey will be pilot tested with 9 or fewer respondents before deployment to assure that they require 15 minutes or less to take.

There are no costs to respondents other than their time.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondent	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden hours
Point-of-Care Coordinators	FGS1	500	1	15/60	125
	FGS2	250	1	15/60	63
	FGS3	500	1	15/60	125
Laboratory Directors	FGS1	4,276	1	15/60	1,069
	FGS2	2,138	1	15/60	535
	FGS3	4,276	1	15/60	1,069
Laboratory Managers	FGS1	4,276	1	15/60	1,069
	FGS2	2,138	1	15/60	535
	FGS3	4,276	1	15/60	1,069
Laboratory Supervisors	FGS1	4,276	1	15/60	1,069
	FGS2	2,138	1	15/60	535
	FGS3	4,276	1	15/60	1,069
Medical Technologists	FGS1	7,800	1	15/60	1,950
	FGS2	3,900	1	15/60	975
	FGS3	7,800	1	15/60	1,950
Nurses	FGS1	5,000	1	15/60	1,250
	FGS2	2,500	1	15/60	625
	FGS3	5,000	1	15/60	1,250
Medical Doctors	FGS1	3,500	1	15/60	875
	FGS2	1,750	1	15/60	438
	FGS3	3,500	1	15/60	875
Total					18,520

Leroy A. Richardson,

Chief, Information Collection Review Office, Office of Scientific Integrity, Office of the Associate Director for Science, Office of the Director, Centers for Disease Control and Prevention.

[FR Doc. 2014–29036 Filed 12–10–14; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2010–D–0073]

Agency Information Collection Activities; Proposed Collection; Comment Request; Guidance on Consultation Procedures: Foods Derived From New Plant Varieties

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing an opportunity for public comment on the proposed collection of certain information by the Agency. Under the Paperwork Reduction Act of 1995 (the PRA), Federal Agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment. This notice solicits comments on the information collection provisions of FDA's consultation procedures for foods derived from new plant varieties, including the information collection provisions in the guidance entitled, ''Guidance on Consultation Procedures: Foods Derived From New Plant Varieties,'' and in Form FDA 3665 entitled, ''Final Consultation For Food Derived From a New Plant Variety (Biotechnology Final Consultation),'' which developers may use to prepare the final consultation in a standard format.

DATES: Submit either electronic or written comments on the collection of information by February 9, 2015.

ADDRESSES: Submit electronic comments on the collection of information to *http://www.regulations.gov.* Submit written comments on the collection of information to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852. All comments should be identified with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: FDA PRA Staff, Office of Operations, Food and Drug Administration, 8455 Colesville Rd., COLE–14526, Silver Spring, MD 20993–0002, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal Agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, we are publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, we invite comments on these topics: (1) Whether the proposed collection of information is necessary for the proper performance of our functions, including whether the information will have practical utility; (2) the accuracy of our estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Guidance on Consultation Procedures: Foods Derived From New Plant Varieties

Since 1992, when FDA issued its ''Statement of Policy: Foods Derived From New Plant Varieties'' (the 1992 policy) (57 FR 22984, May 29, 1992), FDA has encouraged developers of new plant varieties, including those varieties that are developed through biotechnology, to consult with FDA during the plant development process to discuss possible scientific and regulatory issues that might arise. In the 1992 policy, FDA explained that, under the Federal Food, Drug, and Cosmetic Act (the FD&C Act), developers of new foods (in this document food refers to both human food and animal feed) have a responsibility to ensure that the foods they offer to consumers are safe and are in compliance with all requirements of the FD&C Act (57 FR 22984 at 22985).

FDA recommends that producers who use biotechnology in the manufacture or development of foods and food ingredients work cooperatively with FDA to ensure that products derived through biotechnology are safe and comply with all applicable legal requirements and has instituted a voluntary consultation process with industry. To facilitate this process the Agency has issued a guidance entitled, ''Guidance on Consultation Procedures: Foods Derived From New Plant Varieties,'' which is available on FDA's Web site at *http://www.fda.gov/Food Guidances.* The guidance describes FDA's consultation process for the evaluation of information on new plant varieties provided by developers. The Agency believes this consultation process will help ensure that human food and animal feed safety issues or other regulatory issues (*e.g.* labeling) are resolved prior to commercial distribution. Additionally, such communication will help to ensure that any potential food safety issues regarding a new plant variety are resolved during development, and will help to ensure that all market entry decisions by the industry are made consistently and in full compliance with the standards of the FD&C Act.

Description of Respondents: Respondents to this collection of information include developers of new plant varieties intended for food use.

FDA estimates the burden of this collection as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

Activity	FDA form No.	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
Initial consultation	None	20	2	40	4	160
Final consultation	FDA 3665	12	1	12	150	1,800
Total						1,960

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Initial Consultations

Initial consultations are generally a one-time burden, although a developer might return more than once to discuss additional issues before submitting a final consultation. As noted in the guidance, FDA encourages developers to consult early in the development phase of their products, and as often as necessary. Historically, firms developing a new bioengineered plant variety intended for food use have generally initiated consultation with FDA early in the process of developing such a variety, even though there is no legal obligation for such consultation. These consultations have served to make FDA aware of foods and food ingredients before these products are distributed commercially, and have provided FDA with the information necessary to address any potential questions regarding the safety, labeling, or regulatory status of the food or food ingredient. As such, these consultations have provided assistance to both industry and the Agency in exercising their mutual responsibilities under the FD&C Act.

FDA estimates that its Center for Veterinary Medicine (CVM) and its Center for Food Safety and Applied Nutrition (CFSAN) jointly received an average of 40 initial consultations per year in the last 3 years via telephone, email or written letter. Based on this information, we expect to receive no more than 40 annually in the next 3 years.

Final Consultations

Final consultations are a one-time burden. At some stage in the process of research and development, a developer will have accumulated the information that the developer believes is adequate to ensure that food derived from the new plant variety is safe and that it demonstrates compliance with the relevant provisions of the FD&C Act. The developer will then be in a position to conclude any ongoing consultation with FDA. The developer submits to FDA a summary of the safety and nutritional assessment that has been conducted about the bioengineered food that is intended to be introduced into commercial distribution. FDA evaluates the submission to ensure that all potential safety and regulatory questions have been addressed. FDA has developed a form that prompts a developer to include certain elements in the final consultation in a standard format: Form FDA 3665 entitled, ''Final Consultation for Food Derived From a New Plant Variety (Biotechnology Final Consultation).'' The form, and elements that would be prepared as attachments to the form, can be submitted in electronic format.

Upon implementation of the collection, FDA contacted five firms that had made one or more biotechnology consultation submissions. We asked each of these firms for an estimate of the hourly burden to prepare a submission under the voluntary biotechnology consultation process. Based on information provided by the three firms who responded, we estimate the average time to prepare a submission for final consultation to be 150 hours.

Dated: December 8, 2014.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2014–29046 Filed 12–10–14; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2014–N–1960]

Agency Information Collection Activities; Proposed Collection; Comment Request; MedWatch: The Food and Drug Administration Medical Products Reporting Program

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing an opportunity for public comment on the proposed collection of certain information by the Agency. Under the Paperwork Reduction Act of 1995 (the PRA), Federal Agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on revisions to Forms FDA 3500, 3500A, and 3500B used in the FDA Medical Products Reporting Program.

DATES: Submit either electronic or written comments on the collection of information by February 9, 2015.

ADDRESSES: Submit electronic comments on the collection of information to *http://www.regulations.gov.* Submit written comments on the collection of information to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. All comments should be identified with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: FDA PRA Staff, Office of Operations, Food and Drug Administration, 8455 Colesville Rd., COLE–14526, Silver Spring, MD 20993–0002, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal Agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

MedWatch: The FDA Medical Products Reporting Program—(OMB Control Number 0910–0291)—Extension

I. Background

To ensure the marketing of safe and effective products, postmarketing adverse outcomes and product problems must be reported for all FDA-regulated human healthcare products, including drugs (prescription, nonprescription, and compounded), biologics, medical devices, dietary supplements and other special nutritional products (*e.g.* infant formula and medical foods), and cosmetics. In addition, FDA has

regulatory responsibility for some tobacco products and an interest in receiving reports about adverse outcomes and product problems for these products.

Under sections 505, 512, 513, 515, 519, and 903 of the Federal Food, Drug, and Cosmetic Act (the FD&C Act), (21 U.S.C. 355, 360b, 360c, 360e, 360i, and 393), and section 351 of the Public Health Service Act (42 U.S.C. 262), FDA has the responsibility to ensure the safety and effectiveness of drugs, biologics, and devices. Under section 502(a) of the FD&C Act (21 U.S.C. 352(f)(2)), a drug or device is misbranded if its labeling is false or misleading. Under section 502(f)(1) of the FD&C Act, it is misbranded if it fails to bear adequate warnings, and under section 502(j), it is misbranded if it is dangerous to health when used as directed in its labeling. Under section 502(t)(2) of the FD&C Act, devices are considered to be misbranded if there has been a failure or refusal to give required notification or to furnish required material or information required under section 519 of the FD&C Act. Requirements regarding mandatory reporting of adverse events or product problems have been codified in parts 310, 314, 600, and 803 of the FD&C Act (21 CFR 310, 314, 600, and 803), specifically §§ 310.305, 314.80, 314.98, 600.80, 803.30, 803.50, 803.53, 803.56, and specified in sections 503B, 760, and 761 of the FD&C Act. Mandatory reporting of adverse reactions for human cells, tissues, and cellular- and tissue-based products (HCT/Ps) has been codified in 21 CFR 1271.350.

FDA regulates the safety (*i.e.,* adulteration) of dietary supplements under section 402 of the FD&C Act (21 U.S.C. 342). Dietary supplements do not require premarket approval by FDA, and the Agency bears the burden to gather and review evidence that a dietary supplement may be adulterated under section 402 of the FD&C Act after that product is marketed. Under section 761(b)(1) of the FD&C Act (21 U.S.C 379aa–1(b)(1)), a dietary supplement manufacturer, packer, or distributor whose name appears on the label of a dietary supplement marketed in the United States is required to submit to FDA any serious adverse event report it receives regarding use of the dietary supplement in the United States.

Since 1993, mandatory adverse event reporting has been supplemented by voluntary reporting by healthcare professionals, their patients, and consumers via the MedWatch reporting process. To carry out its responsibilities, the Agency needs to be informed when an adverse event, product problem, error with use of a human medical product, or evidence of therapeutic failure is suspected or identified in clinical use. When FDA receives this information from healthcare professionals, patients, or consumers, the report becomes data that will be used to assess and evaluate the risk associated with the product. FDA will then take whatever action is necessary to reduce, mitigate, or eliminate the public's exposure to the risk through regulatory and public health interventions.

To implement these provisions for reporting on human medical products (except vaccines) during their postapproval and marketed lifetimes, three forms (collectively known as the MedWatch forms) are available from the Agency. Form FDA 3500 may be used for voluntary (*i.e.,* not mandated by law or regulation) reporting by healthcare professionals. Form FDA 3500B is written in plain language and may be used for voluntary reporting (*i.e.,* not mandated by law or regulation) by consumers (*i.e.,* patients and their caregivers). Form FDA 3500A is used for mandatory reporting (*i.e.,* required by law or regulation).

Respondents to this collection of information are healthcare professionals; medical care organizations and other user facilities (*e.g.* extended care facilities, ambulatory surgical centers); consumers; manufacturers of biological, dietary supplement and drug products, or medical devices; and importers.

II. Use of Form FDA 3500 (Voluntary Reporting)

This voluntary version of the form may be used by healthcare professionals to submit all reports not mandated by Federal law or regulation. Individual health professionals are not required by law or regulation to submit reports to the Agency or the manufacturer with the exception of certain adverse reactions following immunization with vaccines as mandated by the National Childhood Vaccine Injury Act of 1986 (42 U.S.C. 300aa–1). Reports for vaccines are not submitted via MedWatch or MedWatch forms, but are submitted to the Vaccines Adverse Event Reporting System (see *http://vaers.hhs.gov*), which is jointly administered by FDA and the Centers for Disease Control and Prevention.

Hospitals are not required by Federal law or regulation to submit reports associated with drug products, biological products, or special nutritional products. However, hospitals and other user facilities are required by Federal law to report medical device-related deaths and serious injuries.

Under Federal law and regulation, section 761(b)(1) of the FD&C Act, a dietary supplement manufacturer, packer, or distributor whose name appears on the label of a dietary supplement marketed in the United States is required to submit to FDA any serious adverse event report it receives regarding use of the dietary supplement in the United States. However, FDA bears the burden to gather and review evidence that a dietary supplement may be adulterated under section 402 of the FD&C Act after that product is marketed. Therefore, the Agency depends on the voluntary reporting by health professionals, and especially by consumers, of suspected serious adverse events and product quality problems associated with the use of dietary supplements. All dietary supplement reports were previously received by the Agency on paper versions of Form FDA 3500 (by mail or fax). Currently, electronic reports may be sent to the Agency via an online submission route called the Safety Reporting Portal (*http://www.safetyreporting.hhs.gov/*). In that case, Form FDA 3500 is not used.

Form FDA 3500 may be used to report to the Agency serious adverse events, product problems, and product use errors and therapeutic failures. The form is provided in both paper and electronic formats. Reporters may mail or fax paper forms to the Agency (a fillable PDF version of the form is available at *http://www.fda.gov/downloads/AboutFDA/ReportsManualsForms/Forms/UCM163919.pdf*) or electronically submit a report via the MedWatch Online Voluntary Reporting Form (*https://www.accessdata.fda.gov/scripts/medwatch/*). Reporting is supported for drugs, non-vaccine biologicals, medical devices, special nutritional products, cosmetics, and non-prescription (over the counter (OTC)) human drug products marketed without an approved application. The paper form may also be used to submit reports about tobacco products and dietary supplements. Electronic reports for tobacco products and dietary supplements may be submitted to the Agency via an online submission route called the Safety Reporting Portal (*http://www.safetyreporting.hhs.gov/*).

III. Use of Form 3500B (Consumer Voluntary Reporting)

This voluntary version of the form may be used by consumers (*i.e.* patients and their caregivers) to submit reports not mandated by Federal law or regulation. Individual patients or their caregivers are not required by law or regulation to submit reports to the Agency or the manufacturer.

FDA supports and encourages direct reporting to the Agency by consumers of suspected serious adverse outcomes and other product problems associated with human medical products, (*http://www.fda.gov/Safety/ReportaProblem/default.htm*). Since the inception of the MedWatch program, launched in July 1993 by then FDA Commissioner David Kessler (Ref. 1), the program has been promoting and facilitating voluntary reporting by both the general public and healthcare professionals. FDA has further encouraged voluntary reporting by requiring inclusion of the MedWatch toll-free phone number or the MedWatch Internet address on all outpatient drug prescriptions dispensed, as mandated by section 17 of the Best Pharmaceuticals for Children Act (Pub. L. 107–109).

On March 25, 2008, section 906 of the Food and Drug Administration Amendments Act (Pub. L. 110–85) amended section 502(n) of the FD&C Act and mandated that published direct-to-consumer advertisements for prescription drugs include the following statement printed in conspicuous text (this includes vaccine products): ''You are encouraged to report negative side effects of prescription drugs to the FDA. Visit *www.fda.gov/safety/medwatch,* or call 1–800–FDA–1088.''

Most private vendors of consumer medication information, the drug product-specific instructions dispensed to consumers at outpatient pharmacies, remind patients to report ''side effects'' to FDA and provide contact information to permit reporting via the MedWatch process.

Since 2013, FDA has made available Form FDA 3500B. It was proposed during the previous authorization in 2012 and is a version of Form FDA 3500 that is tailored for consumers and written in plain language (in conformance with the Plain Writing Act of 2010 (Pub. L. 111–274) *http://www.gpo.gov/fdsys/pkg/PLAW-111publ274/pdf/PLAW-111publ274.pdf*). Form FDA 3500B evolved from several iterations of draft versions, with input from human factors experts, from other regulatory agencies, and with extensive input from consumer advocacy groups and the general public.

Form FDA 3500B may be used to report to the Agency adverse events, product problems, and product use errors. The form is provided in both paper and electronic formats. Reporters may mail or fax paper forms to the Agency (a fillable PDF version of the form is available at *http://www.fda.gov/downloads/AboutFDA/ReportsManualsForms/Forms/UCM349464.pdf*) or electronically submit a report via the MedWatch Online Voluntary Reporting Form (*https://www.accessdata.fda.gov/scripts/medwatch/*). Reporting is supported for drugs, non-vaccine biologicals, medical devices, special nutritional products, cosmetics, and non-prescription OTC human drug products marketed without an approved application. The paper form may also be used to submit reports about tobacco products and dietary supplements. Electronic reports for tobacco products and dietary supplements may be submitted to the Agency via an online submission route called the Safety Reporting Portal (*http://www.safetyreporting.hhs.gov/*).

IV. Use of Form FDA 3500A (Mandatory Reporting)

A. Drug and Biological Products

In sections 503B, 505(j), and 704 (21 U.S.C. 374) of the FD&C Act, Congress has required that important safety information relating to all human prescription drug products be made available to the FDA so that it can take appropriate action to protect the public health when necessary. Section 702 of the FD&C Act (21 U.S.C. 372) authorizes investigational powers to the FDA for enforcement of the FD&C Act. These statutory requirements regarding mandatory reporting have been codified by FDA under parts 310 and 314 (drugs) and 600 (biologics). Mandatory reporting of adverse reactions for HCT/Ps has been codified in 21 CFR 1271.350. Postmarketing Safety Reports—Changes in Format Starting in 2015

Current requirements specify that postmarket adverse experience reports must be submitted on paper on FDA Form 3500A (or the CIOMS (Council for International Organizations of Medical Sciences) I form) for serious, unexpected adverse experiences from a foreign source), but for the last several years the Agency has accepted electronic submissions in lieu of the paper Form FDA 3500A on the condition they are submitted in a manner that the Agency can process, review, and archive. On June 10, 2014, the Agency issued a final rule entitled ''Postmarketing Safety Reports for Human Drug and Biological Products; Electronic Submission Requirements'' (79 FR 33072) that requires electronic submission of all mandatory postmarket safety reports, including individual case safety reports. Entities with mandatory reporting obligations must implement this rule within 1 year of the issuance date (by June 9, 2015). For more information see: *http://www.gpo.gov/fdsys/pkg/FR-2014-06-10/pdf/2014-13480.pdf.*

B. Medical Device Products

Section 519 of the FD&C Act (21 U.S.C. 360i) requires manufacturers and importers of devices intended for human use to establish and maintain records, make reports, and provide information, as the Secretary of Health and Human Services may, by regulation, reasonably be required to provide assurance that such devices are not adulterated or misbranded and to otherwise assure its safety and effectiveness. The Safe Medical Devices Act of 1990 (Pub. L. 101–629), signed into law on November 28, 1990, amends section 519 of the FD&C Act. The amendment requires that user facilities such as hospitals, nursing homes, ambulatory surgical facilities, and outpatient treatment facilities report deaths related to medical devices to FDA and to the manufacturer, if known. Serious illnesses and injuries are to be reported to the manufacturer or to FDA if the manufacturer is not known. These statutory requirements regarding mandatory reporting have been codified by FDA under 21 CFR part 803 (part 803). Part 803 mandates the use of Form FDA 3500A for reporting to FDA on medical devices. The Medical Device User Fee and Modernization Act of 2002 (MDUFMA) (Pub. L. 107–250), signed into law October 26, 2002, amended section 519 of the FD&C Act. The MDUFMA amendment (section 303) required FDA to revise the MedWatch forms to facilitate the reporting of information relating to reprocessed single-use devices, including the name of the reprocessor and whether the device has been reused.

C. Nonprescription Drug Products and Dietary Supplements

Section 502(x) in the FD&C Act (21 U.S.C. 352(x)) implements the requirements of the Dietary Supplement and Nonprescription Drug Consumer Protection Act (Pub. L. 109–462), which became law on December 22, 2006. These requirements apply to manufacturers, packers, and distributors of nonprescription OTC human drug products marketed without an approved application. The law requires reports of serious adverse events to be submitted to FDA by manufacturers of dietary supplements. Electronic reports for dietary supplements may be submitted using the Safety Reporting Portal (*http://www.safetyreporting.hhs.gov//*). Paper-based dietary supplement reports may be submitted using Form FDA 3500A.

V. Proposed Modifications to Existing Forms 3500, 3500A, and 3500B

A. General Changes

The proposed modifications to Forms FDA 3500 and 3500A reflect changes that will bring the forms into conformation, since the previous authorization in 2012, with current regulations, rules, and guidances.

B. Changes Proposed for Form FDA 3500

Formatting modifications are proposed to several fields to enhance the clarity and utility of the information collected. In section A2, it is proposed that checkboxes for years, months, weeks, and days be added to permit clarity about the age of the patient. In section A4, it is proposed that checkboxes for pounds (lb) and kilograms (kg) be added to permit clarity about the patient's weight. To permit clarity and utility for the dates being reported, it is proposed that field labels and instructions be modified to ask the reporter to use the format DD–MMM–YYYY. A watermark will be added to the date fields to prompt the reporter to enter data using this format. This proposed change will reduce the data-entry burden for FDA by making the form more easily scanned by the optical character recognition (OCR) software used by the Agency. This change is proposed for all of the date fields on the form including: A2 (Date of Birth), B2 (Death), B3, B4, C (Returned to Manufacturer On), D7, E4 (Expiration Date), E6, and E7.

In recognition of OMB 1997 Revisions to the Standards for the Classification of Federal Data on Race and Ethnicity, and as part of FDA's Action Plan to Enhance the Collection and Availability of Demographic Subgroup Data (*http://www.fda.gov/downloads/RegulatoryInformation/Legislation/FederalFoodDrugandCosmeticActFDCAct/SignificantAmendmentstotheFDCAct/FDASIA/UCM410474.pdf*) developed in response to the requirement in section 907 of the Food and Drug Administration Safety and Innovation Act (FDASIA) of 2012 (Pub. L. 112–144), changes are proposed to the location and formatting of the fields containing data about the patient's race. It is proposed that race be deleted from the descriptor in section B, field B7, that requests ''Other Relevant History, Including Preexisting Medical Conditions (*e.g.* allergies, race, pregnancy, smoking and alcohol use, liver/kidney problems, etc.).'' Instead, it is proposed that a new race and ethnicity field be added to section A, ''Patient Information.'' The proposed ethnicity field will be numbered 5a and state ''Ethnicity (Check single best answer)'' with corresponding checkboxes for ''Hispanic/Latino'' and ''Not Hispanic/Latino.'' Adjacent to this field, the ''Race'' field will be numbered 5b and state ''Race (Check all that apply).'' It will contain checkboxes for ''Asian,'' ''American Indian or Alaskan Native,'' ''Black or African American,'' ''White,'' and ''Native Hawaiian or Other Pacific Islander.''

Changes are proposed to the location, formatting, and labeling of fields related to the suspect product and its availability for evaluation to allow the product's identifying information to be grouped in one place, and increase the likelihood that this information is entered. First, it is proposed that sections C, ''Product Availability,'' and D, ''Suspect Product(s),'' on the current form be merged into a single section to be entitled section C, ''Suspect Products.'' In the new section C, field C1will be used to request data for ''Name and Strength,'' ''Manufacturer/Compounder,'' ''Lot #,'' and ''NDC # or Unique ID #'' for up to two suspect medical products. Fields for ''Lot #'' and ''NDC # or Unique ID #'' on the current form (D6 and D9) will be removed on the proposed form. The single field for ''Product Availability'' (section C on the current form) will be relocated to C2 on the proposed form, immediately following the field for product name, strength, manufacturer/compounder, Lot #, and NDC/Unique ID #. As a result of sections C and D being merged, the remaining sections on the form will be resequenced accordingly (*i.e.* section E currently labeled ''Suspect Medical Device'' will become section D with the same label, section F will become section E, and section G will become section F).

In 2013, the Drug Quality and Security Act (Pub. L. 113–54) added new section 503B to the FD&C Act, under which a compounder may elect to become an outsourcing facility by registering with FDA. Outsourcing facilities are required to report adverse events to FDA in accordance with the content and format requirements established through guidance or regulation under § 310.305. In addition to mandatory reporting, many adverse events related to compounded drugs are reported voluntarily by healthcare professionals and consumers. Therefore, FDA is proposing changes to the voluntary versions of the MedWatch forms (*i.e.* Forms FDA 3500 and 3500B) to improve the ability to rapidly identify reports involving compounded drugs. The existing field (section D, field D1) that contains the descriptor ''Manufacturer'' will be relabeled ''Manufacturer/Compounder.'' Correspondingly, a checkbox for ''Compounder'' will be added to the existing field (section G, field G4) ''Also Reported to.'' It is proposed that a new field be added to the section entitled ''Suspect Products.'' The new field will be numbered and include a descriptor ''Is Product Compounded or Over-the-Counter? (Check all that apply)'' with corresponding checkboxes for ''Compounded'' and ''Over-The-Counter'' (for up to two suspect products). The instructions to the form will be updated accordingly. The form remains a three-page form with all the main data fields on page one, with instructions for use and a self-addressed, postage-paid return mailer on the reverse side of page one, and page three being a continuation page for additional information should reporters need extra space.

C. Changes Proposed for Form FDA 3500A

Formatting modifications are proposed to several fields to enhance the clarity and utility of the information collected. In section A2, it is proposed that checkboxes for years, months, weeks, and days be added to permit clarity about the age of the patient. In section A4, it is proposed that checkboxes for pounds (lb) and kilograms (kg) be added to permit clarity about the patient's weight. To permit clarity and utility for the dates being reported, it is proposed that field labels and instructions be modified to ask the reporter to use the format DD–MMM–YYYY. A watermark will be added to the date fields to prompt the reporter to enter data using this format. This proposed change will reduce the data-entry burden for FDA by making the form more easily scanned by the OCR software used by the Agency. This change is proposed for all of the date fields on the form including: A2 (Date of Birth), B2 (Death), B3, B4, C7, D4 (Expiration Date), D6, D7, D10 (Returned to Manufacturer on), F6, F8, F11, F13, G4, and H4.

In recognition of OMB's 1997 Revisions to the Standards for the Classification of Federal Data on Race and Ethnicity, and as part of FDA's Action Plan to Enhance the Collection and Availability of Demographic Subgroup Data (*http://www.fda.gov/downloads/RegulatoryInformation/Legislation/FederalFoodDrugandCosmeticActFDCAct/SignificantAmendmentstotheFDCAct/FDASIA/UCM410474.pdf*) developed in response to the requirement in section 907 of FDASIA, changes are proposed to the

location and formatting of the fields containing data about the patient's race. It is proposed that race be deleted from the descriptor in section B, field B7, that requests ''Other Relevant History, Including Preexisting Medical Conditions (*e.g.* allergies, race, pregnancy, smoking and alcohol use, liver/kidney problems, etc.).'' Instead, it is proposed that a new race and ethnicity field be added to section A, ''Patient Information.'' The proposed ethnicity field will be numbered 5a, and state ''Ethnicity (Check single best answer)'' with corresponding checkboxes for ''Hispanic/Latino'' and ''Not Hispanic/Latino.'' Adjacent to this field, the ''Race'' field will be numbered 5b, and state ''Race (Check all that apply).'' It will contain checkboxes for ''Asian,'' ''American Indian or Alaskan Native,'' ''Black or African American,'' ''White,'' and ''Native Hawaiian or Other Pacific Islander.''

Changes are proposed to the location, formatting, and labeling of fields related to the suspect product and its availability for evaluation to allow the product's identifying information to be grouped in one place and increase the likelihood that this information is entered. For consistency and clarity, it is proposed that many of the fields in the suspect products sections on Forms FDA 3500 and 3500A be mirrored. For Form FDA 3500A, it is proposed that the current section C, field C1, ''Name (Give labeled strength & mfr/labeler),'' also be used to request data for ''Lot #'' and ''NDC # or Unique ID #.'' Section C, field C1 will be relabeled ''Name, Manufacturer/Compounder, Strength.'' Proposed field C1 will contain distinct areas for ''Name and Strength,'' ''Manufacturer/Compounder,'' ''NDC # or Unique ID #,'' and ''Lot #'' for up to two suspect products. Since the information will now be captured in proposed field C1, separate fields for ''Lot #'' and ''NDC #/Unique ID #'' (C6 and C9 from the current form) will be removed. It is also proposed that a new field be added, numbered C2, and containing the descriptor ''Product Available for Evaluation?'' with checkboxes for ''Yes,'' ''No,'' and ''Returned to Manufacturer on (DD–MMM–YYYY).'' Consequently, the currently numbered field C2, ''Dose, Frequency & Route Used,'' will be renumbered C3. It will also be reformatted to have three distinct areas for dose, frequency, and route, respectively, for up to two suspect products. Current field C3, ''Therapy Dates,'' will be renumbered C4, and current field C4, ''Diagnosis for Use,'' will be renumbered C5. Current field C5, ''Event Abated After Use Stopped or Dose Reduced,'' will be renumbered C8, and field C8, ''Event Reappeared After Reintroduction?'' will be renumbered C9. Field C7 remains a field for expiration date, and field C10 will remain a field for concomitant medical products and therapy dates.

In 2013, the Drug Quality and Security Act added new section 503B to the FD&C Act, under which a compounder may elect to become an outsourcing facility by registering with FDA. Outsourcing facilities are required to report adverse events to FDA in accordance with the content and format requirements established through guidance or regulation under § 310.305. To facilitate implementation of this mandatory reporting requirement, changes will need to be made to the existing Form FDA 3500A. It is proposed that a new field be added to section G1 that contains the descriptor ''Compounding Outsourcing Facility 503B?'' with a corresponding checkbox for ''Yes.'' It is also proposed that a new field be added to section C, ''Suspect Products.'' The new field will be numbered C6 and include a descriptor ''Is Product Compounded or Over-the-Counter (Check all that apply)?'' with corresponding checkboxes for ''Compounded'' and ''Over-The-Counter'' (for up to two suspect products). The instructions to the form will be updated accordingly.

Additionally, for clarity, in section G, field G5, the area labeled ''(A)NDA #'' will be split into two separate areas—one for ''ANDA #'' and one for ''NDA #.''

D. Changes Proposed for Form FDA 3500B

For consistency, and to improve the quality of the data received, the changes being proposed on the voluntary Form FDA 3500 (for use by healthcare professionals) are also being proposed on the voluntary Form FDA 3500B (for use by consumers). Formatting modifications are being proposed to several fields to enhance the quality, utility, and clarity of the information. In section D, the field entitled ''Age (at time the problem occurred) or Birth Date'' will be separated into separate fields for age and date of birth. In the field for ''Age'', checkboxes for years, months, weeks, and days will be added to permit clarity about the age of the patient. Similarly, for the field in section D labeled ''Weight,'' checkboxes for pounds (lb) and kilograms (kg) will be added to permit clarity about the patient's weight. The instructions will be modified accordingly. To permit clarity about the dates being reported, field labels and instructions will be modified to ask the reporter to use the format DD–MMM–YYYY. A watermark will be added to the field to prompt the reporter to respond using this format. This will also reduce the data entry burden by making the form more easily scanned by the OCR software used by FDA. All of the date fields on the form will be affected by this proposed change. These include section A (date the problem occurred, death), section B (expiration date, date the person first started taking or using this product, date the person stopped taking or using this product), section C (date the implant was put in, date the implant was taken out), section D (date of birth), and section E (today's date).

A formatting modification to the field in section D that is currently labeled ''Race'' is being proposed in recognition of OMB 1997 Revisions to the Standards for the Classification of Federal Data on Race and Ethnicity, and as part of FDA's Action Plan to Enhance the Collection and Availability of Demographic Subgroup Data (*http://www.fda.gov/downloads/RegulatoryInformation/Legislation/FederalFoodDrugandCosmeticActFDCAct/SignificantAmendmentstotheFDCAct/FDASIA/UCM410474.pdf*) developed in response to the requirement in section 907 of FDASIA (Pub. L. 112–144). It is proposed that the field be relabeled ''Race (Check all that apply)'' and contain checkboxes for ''Asian,'' ''American Indian or Alaskan Native,'' ''Black or African American,'' ''White,'' and ''Native Hawaiian or Other Pacific Islander.'' It is also proposed that the field contain an adjacent area labeled ''Ethnicity (Check single best answer)'' with corresponding checkboxes for ''Hispanic/Latino'' and ''Not Hispanic/Latino.''

As discussed previously in this notice, section 503B of the FD&C Act requires outsourcing facilities to report adverse events to FDA. In addition to mandatory reporting, many adverse events related to compounded drugs are reported voluntarily by healthcare professionals and consumers. Therefore, FDA is proposing changes to the voluntary versions of Forms FDA 3500 and 3500B to improve the ability to rapidly identify reports involving compounded drugs. FDA proposes to add a field to section B with the label ''Is product Compounded or Over-The-Counter (Check all that apply)''? and corresponding checkboxes for ''Compounded'' and ''Over-The-Counter.''

Finally, to improve clarity and to be consistent with Form FDA 3500, FDA proposes to reword the last field of

section E that currently asks ''May we give your name and contact information to the company that makes the product (manufacturer) to help them evaluate the product?'' to ''If you do NOT want your identity disclosed to the manufacturer, place an 'X' in this box.''

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN

FDA Center/21 CFR section/FDA form	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total
Center for Biologics Evaluation and Research/ Center for Drug Evaluationand Research:.					
Form 3500	14,727	1	14,727	0.66 (40 minutes)	9,720
Form 3500A (§§ 310.305, 314.80, 314.98, 600.80, 1271.350).	599	98	58,702	1.21	71,029
Center for Devices and Radiological Health:.					
Form 3500	5,233	1	5,233	0.66 (40 minutes)	3,454
Form 3500A (§ 803)	2,277	296	673,992	1.21	815,530
Center for Food Safety and Applied Nutrition:.					
Form 3500	1,793	1	1,793	0.66 (40 minutes)	1,183
Form 3500A	1,659	1	1,659	1.21	2,007
Center for Tobacco Products.					
Form 3500	39	1	39	0.66 (40 minutes)	26
All Centers.					
Form 3500B	13,750	1	13,750	0.46 (30 minutes)	6,325
Total					909,274

VI. References

1. Kessler, D. A, ''Introducing MEDWatch: A New Approach to Reporting Medication and Device Adverse Effects and Product Problems,'' *Journal of the American Medical Association,* 269(21), June 2, 1993, pp. 2765–2768.

Dated: December 5, 2014.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2014–29064 Filed 12–10–14; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2014–N–2076]

Agency Information Collection Activities; Proposed Collection; Comment Request; Survey on the Occurrence of Foodborne Illness Risk Factors in Selected Restaurant Facility Types

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing an opportunity for public comment on the proposed collection of certain information by the Agency. Under the Paperwork Reduction Act of 1995 (the PRA), Federal Agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on a survey entitled, ''Occurrence of Foodborne Illness Risk Factors in Selected Restaurant Facility Types (2013–2022).''

DATES: Submit either electronic or written comments on the collection of information by February 9, 2015.

ADDRESSES: Submit electronic comments on the collection of information to *http://www.regulations.gov.* Submit written comments on the collection of information to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852. All comments should be identified with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: FDA PRA Staff, Office of Operations, Food and Drug Administration, 8455 Colesville Rd., COLE–14526, Silver Spring, MD 20993–0002, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal Agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Survey on the Occurrence of Foodborne Illness Risk Factors in Selected Restaurant Facility Types (2013–2022) (OMB Control Number 0910–0744)

I. Background

In 2013–2014, the U.S. Food and Drug Administration (FDA) initiated a study in two foodservice facility types: Full service and fast food restaurants. The study will span 10 years in its entirety and aims to:

- Assist FDA with developing retail food safety initiatives and policies focused on the control of foodborne illness risk factors—preparation practices and employee behaviors most commonly reported to the Centers for Disease Control and Prevention as contributing factors to foodborne illness outbreaks at the retail level. (*i.e.* food from unsafe sources, poor personal hygiene, inadequate cooking, improper holding/time and temperature, and contaminated equipment/cross-contamination);
- Identify retail food safety work plan priorities and allocate resources to enhance retail food safety nationwide;
- Track changes in the occurrence of foodborne illness risk factors in retail and foodservice establishments over time; and
- Inform recommendations to the retail and foodservice industry and state, local, tribal, and territorial regulatory professionals on reducing the occurrence of foodborne illness risk factors.

TABLE 1—DESCRIPTION OF THE FACILITY TYPES INCLUDED IN THE SURVEY

Facility type	Description
Full Service Restaurants	A restaurant where customers place their order at their table, are served their meal at the table, receive the service of the wait staff, and pay at the end of the meal.
Fast Food Restaurants	A restaurant that is not a full service restaurant This includes restaurants commonly referred to as quick service restaurants and fast casual restaurants.

The statutory basis for FDA conducting this study is derived from the Public Health Service Act (42 U.S.C. 243, section 311(a)). Responsibility for carrying out the provisions of the Act relative to food protection was transferred to the Commissioner of Food and Drugs in 1968 (21 CFR 5.10(a)(2) and (4)). Additionally, the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 *et seq)* and the Economy Act (31 U.S.C. 1535) require FDA to provide assistance to other Federal, state, and local government bodies.

The objectives of the study are to:

- Identify the foodborne illness risk factors that are in most need of priority attention during each data collection period;
- Track trends in the occurrence of foodborne illness risk factors over time;
- Examine potential correlations between operational characteristics of food establishments and the control of foodborne illness risk factors;
- Examine potential correlations between elements within regulatory retail food protection programs and the control of foodborne illness risk factors; and
- Evaluate the impact of industry food safety management systems in controlling the occurrence of foodborne illness risk factors.

The data from the 2013–2014 information collection in restaurants is currently being analyzed by FDA. A report summarizing the findings is expected to be released in 2015. In order to analyze trends, FDA is proposing to conduct two additional data collections in 2017–2018 and 2021–2022 using the same methodology employed in the 2013–2014 data collection. This methodology is described as follows.

In order to obtain a sufficient number of observations to conduct statistically significant analysis, FDA will conduct approximately 400 data collections in each restaurant facility type during each data collection period. This sample size has been calculated to provide for sufficient observations to be 95 percent confident that the compliance percentage is within 5 percent of the true compliance percentage.

A geographical information system database containing a listing of businesses throughout the United States will be used as the establishment inventory for the data collections. FDA will sample establishments from the inventory based on the descriptions in table 1. FDA does not intend to sample operations that handle only prepackaged food items or conduct low risk food preparation activities. The *FDA Food Code* contains a grouping of establishments by risk, based on the type of food preparation that is normally conducted within the operation (Ref. 1). The intent is to sample establishments that fall under risk categories 2 through 4.

FDA has approximately 25 Regional Retail Food Specialists (Specialists) who will serve as the data collectors for the 10 year study. The Specialists are geographically dispersed throughout the United States and possess technical expertise in retail food safety and a solid understanding of the operations within each of the facility types to be surveyed. The Specialists are also standardized by FDA's Center for Food Safety and Applied Nutrition personnel in the application and interpretation of the *FDA Food Code* (Ref. 1).

Sampling zones will be established which are equal to the 150 mile radius around a Specialist's home location. The sample will be selected randomly from among all eligible establishments located within these sampling zones. The Specialists are generally located in major metropolitan areas (*i.e.* population centers) across the contiguous United States. Population centers usually contain a large concentration of the establishments FDA intends to sample. Sampling from the 150 mile radius sampling zones around the Specialists' home locations provides three advantages to the study:

1. It provides a cross section of urban and rural areas from which to sample the eligible establishments.
2. It represents a mix of small, medium, and large regulatory entities having jurisdiction over the eligible establishments.
3. It reduces overnight travel and therefore reduces travel costs incurred by the Agency to collect data.

The sample for each data collection period will be evenly distributed among Specialists. Given that participation in the study by industry is voluntary and the status of any given randomly selected establishment is subject to change, substitute establishments will be selected for each Specialist for cases where the restaurant facility is misclassified, closed, or otherwise unavailable, unable, or unwilling to participate.

Prior to conducting the data collection, Specialists will contact the state or local jurisdiction that has regulatory responsibility for conducting retail food inspections for the selected establishment. The Specialist will verify

with the jurisdiction that the facility has been properly classified for the purposes of the study and is still in operation. The Specialist will also ascertain whether the selected facility is under legal notice from the state or local regulatory authority. If the selected facility is under legal notice, the Specialist will not conduct a data collection, and a substitute establishment will be used. An invitation will be extended to the state or local regulatory authority to accompany the Specialist on the data collection visit.

A standard form will be used by the Specialists during each data collection. The form is divided into three sections: Section 1—''Establishment Information;'' Section 2—''Regulatory Authority Information;'' and Section 3—''Foodborne Illness Risk Factor and Food Safety Management System Assessment.'' The information in Section 1—''Establishment Information'' of the form will be obtained during an interview with the establishment owner or person in charge by the Specialist and will include a standard set of questions.

The information in Section 2—''Regulatory Authority Information'' will be obtained during an interview with the program director of the state or local jurisdiction that has regulatory responsibility for conducting inspections for the selected establishment. Section 3 includes three parts: Part A for tabulating the Specialists' observations of the food employees' behaviors and practices in limiting contamination, proliferation, and survival of food safety hazards; Part B for assessing the food safety management being implemented by the facility; and Part C for assessing the frequency and extent of food employee hand washing. The information in Part A will be collected from the Specialists' direct observations of food employee behaviors and practices. Infrequent, nonstandard questions may be asked by the Specialists if clarification is needed on the food safety procedure or practice being observed. The information in Part B will be collected by making direct observations and asking follow up questions of facility management to obtain information on the extent to which the food establishment has developed and implemented food safety management systems. The information in Part C will be collected by making direct observations of food employee hand washing. No questions will be asked in the completion of Section 3, Part C of the form.

FDA will collect the following information associated with the establishment's identity: Establishment name, street address, city, state, zip code, county, industry segment, and facility type. The establishment identifying information is collected to ensure the survey is not duplicative. The establishment identifying information is collected to ensure the data collections are not duplicative. Other information related to the nature of the operation, such as seating capacity and number of employees per shift, will also be collected. Data will be consolidated and reported in a manner that does not reveal the identity of any establishment included in the study.

FDA is working with the National Center for Food Protection and Defense to develop a Web-based platform in FoodSHIELD to collect, store, and analyze data for the Retail Risk Factor Study. Once developed, this platform will be accessible to state, local, territorial, and tribal regulatory jurisdictions to collect data relevant to their own risk factor studies. FDA is currently transitioning from the manual entry of data to the use of hand-held technology. FDA will be pilot testing the use of hand-held technology during its 2015–2016 risk factor study data collection in institutional foodservice and retail food stores, with the goal to have it fully implemented for the 2017–2018 data collection in restaurants. When a data collector is assigned a specific establishment, he or she will conduct the data collection and enter the information into the Web-based data platform. The interface will support the manual entering of data, as well as the ability to upload a fillable PDF.

The burden for the 2017–2018 data collection is as follows. For each data collection, the respondents will include: (1) The person in charge of the selected restaurant facility (whether it be a fast food or full service restaurant); and (2) the program director (or designated individual) of the respective regulatory authority. In order to provide the sufficient number of observations needed to conduct a statistically significant analysis of the data, FDA has determined that the same number of data collections will be required in each of the two restaurant facility types as was required in the 2013–2014 data collection (*i.e.* 400). Therefore, the total number of responses for restaurants will be 1,600 (400 data collections × 2 facility types × 2 respondents per data collection).

The burden associated with the completion of Sections 1 and 3 of the form is specific to the persons in charge of the selected facilities. It includes the time it will take the person in charge to accompany the data collector as he or she completes Sections 1 and 3 of the form. The burden related to the completion of Section 2 of the form is specific to the program directors (or designated individuals) of the respective regulatory authorities. It includes the time it will take to answer the data collectors' questions and is the same regardless of the facility type.

To calculate the estimate of the hours per response, FDA will use the average data collection duration for the same facility types during the 2013–2014 data collection. FDA estimates that it will take the persons in charge of full service restaurants and fast food restaurants 104 minutes (1.73 hours) and 82 minutes (1.36 hours), respectfully, to accompany the data collectors while they complete Sections 1 and 3 of the form. In comparison, for the 2013–2014 data collection, the burden estimate was 106 minutes (1.76 hours) in full service restaurants and 73 minutes (1.21 hours) in fast food restaurants. FDA estimates that it will take the program director (or designated individual) of the respective regulatory authority 30 minutes (0.5 hours) to answer the questions related to Section 2 of the form. This burden estimate is unchanged from the last data collection. Hence, the total burden estimate for a data collection in a full service restaurant, including the both the program director's and the person in charge's responses, is 134 minutes (104 + 30)(2.23 hours). The total burden estimate for a data collection in a fast food restaurant, including the both the program director's and the person in charge's responses, is 112 minutes 82 + 30) (1.86 hours).

Based on the number of entry refusals from the 2013–2014 data collection, we estimate a refusal rate of 2 percent. The estimate of the time per non-respondent is five minutes (0.08 hours) for the person in charge to listen to the purpose of the visit and provide a verbal refusal of entry.

TABLE 2—ESTIMATED ANNUAL REPORTING BURDEN [1]

Activity	Number of respondents	Number of responses per respondent	Total annual responses	Number of non-respondents	Number of responses per non-respondent	Total annual non-responses	Average burden per response	Total hours
2017–2018 Data Collection (Fast Food Restaurants)—Completion of Sections 1 and 3.	400	1	400				1.36	544
2017–2018 Data Collection (Full Service Restaurants)—Completion of Sections 1 and 3.	400	1	400				1.73	692
2017–2018 Data Collection-Completion of Section 2—All Facility Types.	800	1	800				0.5 (30 minutes).	400
2017–2018 Data Collection-Entry Refusals—All Facility Types.				16	1	16	0.08 (5 minutes).	1.28
Total hours							.....	1,637.28

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

II. Reference

The following reference has been placed on display in the Division of Dockets Management (see ADDRESSES) and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday, and are available electronically at *http://www.regulations.gov.*

1. *FDA Food Code.* Available at: *http://www.fda.gov/Food/GuidanceRegulation/RetailFoodProtection/FoodCode/default.htm.*

Dated: December 5, 2014.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2014–29065 Filed 12–10–14; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2008–P–0320]

Determination That PFIZERPEN (Penicillin G Potassium) Injection, 1 Million Units/Vial, Was 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 PFIZERPEN (penicillin G potassium) Injection, 1 million units/vial, was not withdrawn from sale for reasons of safety or effectiveness. This determination will allow FDA to approve abbreviated new drug applications (ANDAs) for penicillin G potassium injection, 1 million units/vial, if all other legal and regulatory requirements are met.

FOR FURTHER INFORMATION CONTACT: Nikki Mueller, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 6250, Silver Spring, MD 20993–0002, 301–796–3601.

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 under an ANDA procedure. ANDA applicants 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. ANDA applicants 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 known generally as the ''Orange Book.'' Under FDA regulations, drugs are 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).

A person may petition the Agency to determine, or the Agency may determine on its own initiative, whether a listed drug was withdrawn from sale for reasons of safety or effectiveness. This determination may be made at any time after the drug has been withdrawn from sale, but must be made prior to approving an ANDA that refers to the listed drug (21 CFR 314.161). FDA may not approve an ANDA that does not refer to a listed drug.

PFIZERPEN (penicillin G potassium) Injection, 1 million units/vial, is the subject of ANDA 60–657, held by Pfizer, Inc., and initially approved on August 30, 1968. ANDA 60–657 is considered the designated reference standard. PFIZERPEN is indicated in the treatment of serious infections caused by susceptible strains of the designated microorganisms in certain conditions such as septicemia, pneumonia, meningitis, anthrax, and listeria.

PFIZERPEN (penicillin G potassium) Injection, 1 million units/vial, is currently listed in the ''Discontinued Drug Product List'' section of the Orange Book. Lachman Consultant Services, Inc., submitted a citizen petition dated May 27, 2008 (Docket No. FDA–2008–P–0320), under 21 CFR 10.30,

requesting that the Agency determine whether PFIZERPEN (penicillin G potassium) Injection, 1 units/vial, and penicillin G potassium injection, 1 million units/vial, had been withdrawn from sale for reasons of safety or effectiveness. Penicillin G potassium Injection, 1 million units/vial, is the subject of ANDA 65–079, held by Sandoz, and approved on August 30, 2002.

After considering the citizen petition and reviewing Agency records and based on the information we have at this time, FDA has determined under § 314.161 that PFIZERPEN (penicillin G potassium) Injection, 1 million units/vial, was not withdrawn for reasons of safety or effectiveness (this determination also applies to penicillin G potassium injection, 1 million units/vial, ANDA 65–079). The petitioner believes that PFIZERPEN (penicillin G potassium) Injection, 1 million units/vial, was not withdrawn for reasons of safety or effectiveness because it was discontinued due to commercial reasons. We have carefully reviewed our files for records concerning the withdrawal of PFIZERPEN (penicillin G potassium) Injection, 1 million units/vial, from sale. We have also independently evaluated relevant literature and data for possible postmarketing adverse events. We have reviewed the available evidence and determined that this product was not withdrawn from sale for reasons of safety or effectiveness.

Accordingly, the Agency will continue to list PFIZERPEN (penicillin G potassium) Injection, 1 million units/vial, in the ''Discontinued Drug Product List'' section of the Orange Book. The ''Discontinued Drug Product List'' delineates, among other items, drug products that have been discontinued from marketing for reasons other than safety or effectiveness. ANDAs that refer to PFIZERPEN (penicillin G potassium) Injection, 1 million units/vial, may be approved by the Agency as long as they meet all other legal and regulatory requirements for the approval of ANDAs. If FDA determines that labeling for this drug product should be revised to meet current standards, the Agency will advise ANDA applicants to submit such labeling.

Dated: December 5, 2014.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2014–29034 Filed 12–10–14; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2007–D–0369]

Bioequivalence Recommendations for Budesonide Extended-Release Tablets; Draft Guidance for Industry; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a draft guidance for industry entitled ''Bioequivalence Recommendations for Budesonide Extended-Release Tablets.'' The guidance provides specific recommendations on the design of bioequivalence (BE) studies to support abbreviated new drug applications (ANDAs) for budesonide extended-release tablets.

DATES: Although you can comment on any guidance at any time (see 21 CFR 10.115(g)(5)), to ensure that the Agency considers your comments on this draft guidance before it begins work on the final version of the guidance, submit either electronic or written comments on the draft guidance by February 9, 2015.

ADDRESSES: Submit written requests for single copies of the draft guidance to the Division of Drug Information, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 2201, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance document.

Submit electronic comments on the draft guidance to *http://www.regulations.gov.* Submit written comments to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Kris André, Center for Drug Evaluation and Research (HFD–600), Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 75, Rm. 1615, Silver Spring, MD 20993–0002, 240–402–7290.

SUPPLEMENTARY INFORMATION:

I. Background

In the **Federal Register** of June 11, 2010 (75 FR 33311), FDA announced the availability of a guidance for industry entitled ''Bioequivalence Recommendations for Specific Products,'' which explained the process that would be used to make product-specific BE recommendations available to the public on FDA's Web site at *http://www.fda.gov/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/default.htm.* As described in that guidance, FDA adopted this process as a means to develop and disseminate product-specific BE recommendations and to provide a meaningful opportunity for the public to consider and comment on those recommendations. This notice announces the availability of draft BE recommendations for budesonide extended-release tablets.

New drug application 203634 for UCERIS (budesonide) extended-release tablets, 9 milligrams (mg), was initially approved by FDA in January 2013. FDA is now issuing a draft guidance for industry on BE recommendations for generic budesonide extended-release tablets.

In February 2013, Santarus, Inc., submitted a citizen petition requesting that FDA: (1) Issue an individual BE guidance for budesonide extended-release tablets and (2) refrain from approving any ANDA that identifies UCERIS (budesonide) extended-release tablets as the reference listed drug unless the generic product is shown to be bioequivalent based on appropriate data from a clinical efficacy endpoint study, comparative pharmacokinetic testing, in vitro dissolution testing, and pharmacoscintigraphy studies (Docket No. FDA 2013–P–0127). FDA reviewed the issues raised in the petition and is responding to the petition today in a letter that will be included in the citizen petition docket.

This draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft guidance, when finalized, will represent the Agency's current thinking on the design of BE studies to support ANDAs for budesonide extended-release tablets. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statutes and regulations.

II. 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.*

III. Electronic Access

Persons with access to the Internet may obtain the document at either *http://www.fda.gov/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/default.htm* or *http://www.regulations.gov.*

Dated: December 5, 2014.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2014–29035 Filed 12–10–14; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Prospective Grant of a Start-Up Exclusive Patent License Agreement: Use of Compounds Covered by Patent Rights for Diagnosis of Human Thyroid Cancer Requiring FDA Premarket Approval or an Equivalent Authority Outside of the United States, and Treatment of Human Thyroid Cancer

AGENCY: National Institutes of Health, HHS.

ACTION: Notice.

SUMMARY: This is notice, in accordance with 35 U.S.C. 209 and 37 CFR part 404, that the National Institutes of Health, Department of Health and Human Services, is contemplating the grant of a Start-Up Exclusive Patent License to Nova Therapeutics LLC, a company having a place of business in Delaware, to practice the inventions embodied in the following patent applications:

(a) PCT Patent Application No. PCT/US2008/11958, Filed: October 20, 2008, HHS Ref. No.: E–284–2008/0–PCT–01

(b) Australian Patent No. 2008–363295, Filed: October 20, 2008, HHS Ref No.: E–284–2008/0–AU–02

(c) Canadian Patent Application No. 2,741,030, Filed: October 20, 2008, HHS Ref. No.: E–284–2008/0–CA–03

(d) European Patent Application No. 08876356.0, Filed: October 20, 2008, HHS Ref. No.: E–284–2008/0–EP–04

(e) Indian Patent Application No. 3684/DELNP/2011, Filed: October 20, 2008, HHS Ref. No.: E–284–2008/0–IN–05

(f) Japanese Patent Application No. 2011–532048, Filed: October 20, 2008, HHS Ref. No.: E–284–2008/0–JP–06

(g) U.S. Patent No. 8,741,259 U.S. Patent Application No. 13/125,045, Filed: October 20, 2008, HHS Ref. No.: E–284–2008/0–US–07

(h) U.S. Patent Application No. 13/897,330, Filed: October 20, 2008, HHS Ref. No.: E–284–2008/0–US–08 Current status: pending

(i) U.S. Patent Application No. 14/243,821, Filed: October 20, 2008, HHS Ref. No.: E–284–2008/0–US–10

The patent rights in this invention have been assigned to the Government of the United States of America. The territory of the prospective Start-Up Exclusive Patent License Agreement may be worldwide and the field of use may be limited to: Use of compounds covered by Patent Rights for diagnosis of human thyroid cancer requiring FDA premarket approval or an equivalent authority outside of the United States, and treatment of human thyroid cancer.

DATES: Only written comments or applications for a license (or both) which are received by the NIH Office of Technology Transfer on or before December 26, 2014 will be considered.

ADDRESSES: Requests for copies of the patent application, inquiries, comments, and other materials relating to the contemplated Start-Up Exclusive Patent License Agreement should be directed to: Lauren Nguyen-Antczak, Ph.D., J.D., Licensing and Patenting Manager, Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, MD 20852–3804; Telephone: (301) 435–4074; Facsimile: (301) 402–0220; Email: *Lauren.Nguyen-antczak@nih.gov.* A signed confidentiality nondisclosure agreement will be required to receive copies of any patent application(s) that have not been published or issued by the United States Patent and Trademark Office of the World Intellectual Property Organization.

SUPPLEMENTARY INFORMATION: This invention concerns small molecule compounds that agonize the activity of the thyroid stimulating hormone receptor (''TSHR''). These TSHR agonists enhance or activate the thyroid stimulating hormone (''TSH'') signaling pathway by directly binding to the transmembrane domain of TSHR. Invention compounds may be administered alone or in combination with radioactive iodine to detect thyroid cancer cells. Additionally, invention compounds may be administered in combination with radioactive iodine to treat thyroid cancer, such as to ablate thyroid remnants in patients after a thyroidectomy.

The prospective Start-Up Exclusive Patent License that is being considered can be found at *http://www.ott.nih.gov/forms-model-agreements#SUMLA,* which complies with the terms and conditions of 35 U.S.C. 209 and 37 CFR part 404. The prospective Start-Up Exclusive Patent License is being provided under the small business initiative launched on 1 October 2011. The prospective Start-Up Exclusive Patent License may be granted unless the NIH receives written evidence and argument, within fifteen (15) days from the date of this published notice, that establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR part 404.

Complete applications for a license in the prospective field of use that are filed in response to this notice will be treated as objections to the grant of the contemplated Start-Up Exclusive Patent License. Comments and objections submitted to this notice will not be made available for public inspection and, to the extent permitted by law, will not be released under the Freedom of Information Act, 5 U.S.C. 552.

Dated: December 4, 2014.

Richard U. Rodriguez,

Acting Director, Office of Technology Transfer, National Institutes of Health.

[FR Doc. 2014–29017 Filed 12–10–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of meetings of the National Diabetes and Digestive and Kidney Diseases Advisory Council.

The meetings will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning

individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Diabetes and Digestive and Kidney Diseases Advisory Council.

Date: January 28, 2015.

Open: 8:30 a.m. to 12:00 p.m.

Agenda: To present the Director's Report and other scientific presentations.

Place: National Institutes of Health, Building 31, Conference Room 10, 31 Center Drive, Bethesda, MD 20892.

Closed: 3:45 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Building 31, Conference Room 10, 31 Center Drive, Bethesda, MD 20892.

Contact Person: Brent B. Stanfield, Ph.D., Director, Division of Extramural Activities, National Institutes of Diabetes and Digestive and Kidney Diseases, 6707 Democracy Blvd., Room 715, MSC 5452, Bethesda, MD 20892, (301) 594–8843, *stanfibr@niddk.nih.gov*.

Name of Committee: National Diabetes and Digestive and Kidney Diseases Advisory Council; Diabetes, Endocrinology and Metabolic Diseases Subcommittee.

Date: January 28, 2015.

Open: 1:00 p.m. to 2:30 p.m.

Agenda: To review the Division's scientific and planning activities.

Place: National Institutes of Health, Building 31, Conference Room 10, 31 Center Drive, Bethesda, MD 20892.

Closed: 2:30 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Building 31, Conference Room 10, 31 Center Drive, Bethesda, MD 20892.

Contact Person: Brent B. Stanfield, Ph.D., Director, Division of Extramural Activities, National Institutes of Diabetes and Digestive And Kidney Diseases, 6707 Democracy Blvd., Room 715, MSC 5452, Bethesda, MD 20892, (301) 594–8843, *stanfibr@niddk.nih.gov*.

Name of Committee: National Diabetes and Digestive and Kidney Diseases Advisory Council; Kidney, Urologic and Hematologic Diseases Subcommittee.

Date: January 28, 2015.

Open: 1:00 p.m. to 3:00 p.m.

Agenda: To review the Division's scientific and planning activities.

Place: National Institutes of Health, Building 31, Conference Room 7, 31 Center Drive, Bethesda, MD 20892.

Closed: 3:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Building 31, Conference Room 7, 31 Center Drive, Bethesda, MD 20892.

Contact Person: Brent B. Stanfield, Ph.D., Director, Division of Extramural Activities, National Institutes of Diabetes and Digestive and Kidney Diseases, 6707 Democracy Blvd., Room 715, MSC 5452, Bethesda, MD 20892, (301) 594–8843, *stanfibr@niddk.nih.gov*.

Name of Committee: National Diabetes and Digestive and Kidney Diseases Advisory Council; Digestive Diseases and Nutrition Subcommittee.

Date: January 28, 2015.

Open: 1:00 p.m. to 2:30 p.m.

Agenda: To review the Division's scientific and planning activities.

Place: National Institutes of Health, Building 31, Conference Room 6, 31 Center Drive, Bethesda, MD 20892.

Closed: 2:30 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Building 31, Conference Room 6, 31 Center Drive, Bethesda, MD 20892.

Contact Person: Brent B. Stanfield, Ph.D., Director, Division of Extramural Activities, National Institutes of Diabetes and Digestive and Kidney Diseases, 6707 Democracy Blvd., Room 715, MSC 5452, Bethesda, MD 20892, (301) 594–8843, *stanfibr@niddk.nih.gov*.

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

In the interest of security, NIH has instituted stringent procedures for entrance onto the NIH campus. All visitor vehicles, including taxicabs, hotel, and airport shuttles will be inspected before being allowed on campus. Visitors will be asked to show one form of identification (for example, a government-issued photo ID, driver's license, or passport) and to state the purpose of their visit.

Information is also available on the Institute's/Center's home page: *www.niddk.nih.gov/fund/divisions/DEA/Council/coundesc.htm.,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: December 5, 2014.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–29020 Filed 12–10–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel; NIH Support for Conferences and Scientific Meetings (R13/U13).

Date: January 6, 2015.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: 5601 Fishers Lane, Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Vasundhara Varthakavi, DVM, Ph.D., Scientific Review Officer, Scientific Review Program, DEA/NIAID/NIH/DHHS, Room 3E70B, 5601 Fishers Lane, Rockville, MD 20852, 240–669–5020, *varthakaviv@niaid.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: December 5, 2014.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–29019 Filed 12–10–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Neurological Disorders and Stroke; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable 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: Neurological Sciences Training Initial Review Group; NST–1 Subcommittee.

Date: February 9–10, 2015.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: One Washington Circle One Washington Circle NW., Washington, DC 20037.

Contact Person: Raul A. Saavedra, Ph.D., Scientific Review Officer, Scientific Review Branch, Division of Extramural Research, NINDS/NIH/DHHS/Neuroscience Center, 6001 Executive Boulevard, Suite 3208, MSC 9529, Bethesda, MD 20892–9529, 301–496–9223, *saavedrr@ninds.nih.gov*.

Name of Committee: National Institute of Neurological Disorders and Stroke Initial Review Group; Neurological Sciences and Disorders A.

Date: March 2–3, 2015.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: The Fairmont Olympic Hotel, 411 University Street, Seattle, WA 98101.

Contact Person: Natalia Strunnikova, Ph.D., Scientific Review Officer, Scientific Review Branch, Division of Extramural Research, NINDS/NIH/DHHS/Neuroscience Center, 6001 Executive Boulevard, Suite 3208, MSC 9529, Bethesda, MD 20892–9529, 301–402–0288, *natalia.strunnikova@nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.853, Clinical Research Related to Neurological Disorders; 93.854, Biological Basis Research in the Neurosciences, National Institutes of Health, HHS)

Dated: December 5, 2014.

Carolyn Baum,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–29021 Filed 12–10–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Interagency Coordinating Committee on the Validation of Alternative Methods Communities of Practice Webinar on Reverse Toxicokinetics; Notice of Public Webinar and Registration Information

SUMMARY: The Interagency Coordinating Committee on the Validation of Alternative Methods (ICCVAM) announces a public webinar ''Reverse Toxicokinetics: Using *In Vitro* Data to Estimate Exposures that Could Be Associated with Adverse Effects *In Vivo.''* The webinar is organized on behalf of ICCVAM by the National Toxicology Program Interagency Center for the Evaluation Alternative Toxicological Methods (NICEATM) and hosted by the Environmental Protection Agency's National Center for Computational Toxicology (NCCT). Interested persons may participate via Adobe® Connect™. Time is allotted for questions from participants.

DATES: Webinar: January 27, 2015, 1:00 p.m. to approximately 2:30 p.m. Eastern Standard Time (EST).

Registration for Webinar: December 3, 2014, until 2:30 p.m. January 27, 2015.

ADDRESSES: Webinar Web page: *http://ntp.niehs.nih.gov/go/ivive-webinar.*

FOR FURTHER INFORMATION CONTACT: Dr. Warren S. Casey, Director, NICEATM; email: *warren.casey@nih.gov;* telephone: (919) 316–4729.

SUPPLEMENTARY INFORMATION:

Background: ICCVAM promotes the development and validation of toxicity testing methods that protect human health and the environment while replacing, reducing, or refining animal use. ICCVAM also provides guidance to test method developers and facilitates collaborations that promote the development of new test methods. To address these goals, ICCVAM will hold the communities of practice webinar ''Reverse Toxicokinetics: Using *In Vitro* Data to Estimate Exposures that Could Be Associated with Adverse Effects *In Vivo.''*

Many commercial and environmental chemicals lack toxicity data necessary for users and risk assessors to make fully informed decisions about potential health effects. Generating these data using high throughput *in vitro* cell- or biochemical-based tests would be faster and less expensive than testing in animals; tests that use human cells or cellular components would also potentially be more relevant to human health. However, correlating test chemical concentrations that produce effects *in vitro* to exposure levels that cause toxicity *in vivo* is complicated, since factors that can significantly influence toxicity *in vivo* (such as plasma protein binding and metabolic clearance) are often not replicated in *in vitro* assays. Mathematical models known as reverse toxicokinetic models provide a framework for making these correlations. Reverse toxicokinetic models provide an estimate of the exposure level that would result in a blood concentration equal to a chemical concentration causing an *in vitro* adverse outcome.

The ICCVAM webinar will feature presentations by two experts in the development and application of reverse toxicokinetic models to high throughput screening data: John Wambaugh, Ph.D., physical scientist at NCCT, and Barbara Wetmore, Ph.D., senior research investigator at the Hamner Institutes for Health Sciences. Their presentations will provide an overview of the development of reverse toxicokinetic models and discuss the consideration of population variability and sensitive subpopulations in the use of these models.

Webinar and Registration: This webinar is open to the public with time scheduled following each presentation for questions by participants. Registration for the webinar is required and is open from December 3, 2014, through 2:30 p.m. on January 27, 2015. A link to registration is available at *http://ntp.niehs.nih.gov/go/ivive-webinar.* Registrants will receive instructions on how to access and participate in the webinar in the email confirming their registration.

The preliminary agenda is available at *http://ntp.niehs.nih.gov/go/ivive-webinar.* Interested individuals are encouraged to visit this Web page to stay abreast of the most current webinar information.

Individuals with disabilities who need accommodation to participate in this event should contact Ms. LaCresha Styles at phone: (919) 541–3282 or email: *styles.lacresha@epa.gov.* TTY users should contact the Federal TTY Relay Service at (800) 877–8339. Requests should be made at least five business days in advance of the event.

Background Information on ICCVAM and NICEATM: ICCVAM is an interagency committee composed of representatives from 15 federal regulatory and research agencies that require, use, generate, or disseminate toxicological and safety testing information. The ICCVAM Authorization Act of 2000 (42 U.S.C. 285*l*–3) establishes ICCVAM as a permanent interagency committee of the National Institute of Environmental Health Sciences and provides the authority for ICCVAM's involvement in activities relevant to the development of new and revised toxicological tests.

ICCVAM conducts technical evaluations of new, revised, and alternative test methods and integrated testing strategies with regulatory applicability and promotes the scientific validation and regulatory acceptance of test methods that both more accurately assess the safety and hazards of chemicals and products and replace, reduce, or refine (enhance animal well-being and lessen or avoid pain and distress) animal use. ICCVAM acts to ensure that new and revised test methods are validated to meet the needs of federal agencies, to increase the efficiency and effectiveness of federal agency test method review, and to optimize utilization of scientific expertise outside the federal government. Additional information

about ICCVAM can be found at *http://ntp.niehs.nih.gov/go/iccvam.*

NICEATM administers ICCVAM, provides scientific and operational support for ICCVAM activities, and conducts independent validation studies to assess the usefulness and limitations of new, revised, and alternative test methods and strategies. NICEATM and ICCVAM work collaboratively to evaluate new and improved test methods and strategies applicable to the needs of U.S. federal agencies. NICEATM and ICCVAM welcome the public nomination of new, revised, and alternative test methods and strategies for validation studies and technical evaluations. Additional information about NICEATM can be found at *http://ntp.niehs.nih.gov/go/niceatm.*

Dated: December 5, 2014.

John R. Bucher,

Associate Director, National Toxicology Program.

[FR Doc. 2014–29018 Filed 12–10–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID: FEMA–2014–0034; OMB No. 1660–0040]

Agency Information Collection Activities: Proposed Collection; Comment Request; Standard Flood Hazard Determination Form

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: The Federal Emergency Management Agency, 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 a revision of a currently approved information collection. In accordance with the Paperwork Reduction Act of 1995, this notice seeks comments concerning the renewal of the Standard Flood Hazard Determination Form which is used by federally regulated lending institutions to determine if a structure is located within an identified Special Flood Hazard Area (SFHA) and whether flood insurance is available.

DATES: Comments must be submitted on or before February 9, 2015.

ADDRESSES: To avoid duplicate submissions to the docket, please use only one of the following means to submit comments:

(1) *Online.* Submit comments at *www.regulations.gov* under Docket ID FEMA–2013–0034. Follow the instructions for submitting comments.

(2) *Mail.* Submit written comments to Docket Manager, Office of Chief Counsel, DHS/FEMA, 500 C Street SW., Room 8NE, Washington, DC 20472–3100.

(3) *Facsimile.* Submit comments to (703) 483–2999.

All submissions received must include the agency name and Docket ID. Regardless of the method used for submitting comments or material, all submissions will be posted, without change, to the Federal eRulemaking Portal at *http://www.regulations.gov,* and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to read the Privacy Act notice that is available via the link in the footer of *www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Susan Bernstein, Program Specialist, FEMA, Federal Insurance and Mitigation Administration (FIMA), 202–212–2113 for additional information. You may contact the Records Management Division for copies of the proposed collection of information at facsimile number (202) 212–4701 or email address: *FEMA-Information-Collections-Management@fema.dhs.gov.*

SUPPLEMENTARY INFORMATION: On September 23, 1994, Section 303(a) of the Riegle Community Development and Regulatory Improvement Act of 1994 was signed into law. Section 303(a) of this Act requires the Federal bank and thrift regulatory agencies to conduct a systematic review of their regulation and written policies in order to improve efficiency, reduce unnecessary costs, and eliminate inconsistencies and outmoded and duplicative requirements. Title V of this Act is the National Flood Insurance Reform Act (NFIRA). Section 528 of the NFIRA requires that FEMA develop a standard hazard determination form for recording the determination of whether a structure is located within an identified Special Flood Hazard Area (SFHA) and whether flood insurance is available. Section 528 of the NFIRA also requires the use of this form by regulated lending institutions, federal agency lenders, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, and the Government National Mortgage Association for any loan made, increased, extended, renewed or purchased by these entities.

The requirement for federally regulated lending institutions to determine whether a building or mobile home securing a loan is located in an area having special flood hazards and whether flood insurance is available has been in effect since the enactment of the Flood Disaster Protection Act of 1973, although the use of a standard form was not required until the enactment of the Riegle Community Development and Regulatory Improvement Act of 1994. The establishment of the Standard Flood Hazard Determination form has enabled lenders to provide consistent information.

Collection of Information

Title: Standard Flood Hazard Determination Form.

Type of Information Collection: Revision of a currently approved information collection.

OMB Number: 1660–0040.

FEMA Form: FEMA Form 086–0–32, Standard Flood Hazard Determination Form (SFHDF).

Abstract: FEMA Form 086–0–32, SFHDF is used by regulated lending institutions, federal agency lenders, related lenders/regulators, and the Government. Federally regulated lending institutions complete this form when making, increasing, extending, renewing or purchasing each loan for the purpose is of determining whether flood insurance is required and available. The form may also be used by property owner, insurance agents, realtors, community officials for flood insurance related documentation.

Affected Public: Business or other for-profit.

Number of Respondents: 46,456,460.

Number of Responses: 46,456,460.

Estimated Total Annual Burden Hours: 15,330,632 hours.

ESTIMATED ANNUALIZED BURDEN HOURS AND COSTS

Type of respondent	Form name/form No.	Number of respondents	Number of responses per respondent	Total number of responses	Average burden per response (in hours)	Total annual burden (in hours)	Average hourly wage rate	Total annual respondent cost
Business or other for-profit.	Standard Flood Hazard Determination Form (SFHDF)/FEMA Form 086–0–32.	46,456,460	1	46,456,460	0.33 (20 minutes)	15,330,632	$62.05	$951,265,715.60
Total	.....	46,456,460	.....	46,456,460	.....	15,330,632	.....	951,265,715.60

• Note: The ''Avg. Hourly Wage Rate'' for each respondent includes a 1.4 multiplier to reflect a fully-loaded wage rate.

Estimated Cost: The estimated annual cost to respondents for the hour burden is $951,265,715.60. There are no annual costs to respondents' operations and maintenance costs for technical services. There are no annual start-up or capital costs. The cost to the Federal Government is $4,309.

Comments

Comments may be submitted as indicated in the **ADDRESSES** caption above. Comments are solicited to (a) evaluate whether the proposed data collection is necessary for the proper performance of the agency, including whether the information shall have practical utility; (b) 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; (c) enhance the quality, utility, and clarity of the information to be collected; and (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.

Dated: December 3, 2014.

Charlene D. Myrthil,

Director, Records Management Division, Mission Support, Federal Emergency Management Agency, Department of Homeland Security.

[FR Doc. 2014–29025 Filed 12–10–14; 8:45 am]

BILLING CODE 9110–11–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2014–0002; Internal Agency Docket No. FEMA–B–1456]

Changes in Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice lists communities where the addition or modification of Base Flood Elevations (BFEs), base flood depths, Special Flood Hazard Area (SFHA) boundaries or zone designations, or the regulatory floodway (hereinafter referred to as flood hazard determinations), as shown on the Flood Insurance Rate Maps (FIRMs), and where applicable, in the supporting Flood Insurance Study (FIS) reports, prepared by the Federal Emergency Management Agency (FEMA) for each community, is appropriate because of new scientific or technical data. The FIRM, and where applicable, portions of the FIS report, have been revised to reflect these flood hazard determinations through issuance of a Letter of Map Revision (LOMR), in accordance with Title 44, Part 65 of the Code of Federal Regulations (44 CFR part 65). The LOMR will be used by insurance agents and others to calculate appropriate flood insurance premium rates for new buildings and the contents of those buildings. For rating purposes, the currently effective community number is shown in the table below and must be used for all new policies and renewals.

DATES: These flood hazard determinations will become effective on the dates listed in the table below and revise the FIRM panels and FIS report in effect prior to this determination for the listed communities.

From the date of the second publication of notification of these changes in a newspaper of local circulation, any person has 90 days in which to request through the community that the Deputy Associate Administrator for Mitigation reconsider the changes. The flood hazard determination information may be changed during the 90-day period.

ADDRESSES: The affected communities are listed in the table below. Revised flood hazard information for each community is available for inspection at both the online location and the respective community map repository address listed in the table below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *www.msc.fema.gov* for comparison.

Submit comments and/or appeals to the Chief Executive Officer of the community as listed in the table below.

FOR FURTHER INFORMATION CONTACT: Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, FEMA, 500 C Street SW., Washington, DC 20472, (202) 646–4064, or (email) *Luis.Rodriguez3@fema.dhs.gov;* or visit the FEMA Map Information eXchange (FMIX) online at *www.floodmaps.fema.gov/fhm/fmx_main.html.*

SUPPLEMENTARY INFORMATION: The specific flood hazard determinations are not described for each community in this notice. However, the online location and local community map repository address where the flood hazard determination information is available for inspection is provided.

Any request for reconsideration of flood hazard determinations must be submitted to the Chief Executive Officer of the community as listed in the table below.

The modifications are made pursuant to section 201 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.,* and with 44 CFR part 65.

The FIRM and FIS report are the basis of the floodplain management measures that the community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These flood hazard determinations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact

stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities. The flood hazard determinations are in accordance with 44 CFR 65.4.

The affected communities are listed in the following table. Flood hazard determination information for each community is available for inspection at both the online location and the respective community map repository address listed in the table below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *www.msc.fema.gov* for comparison.

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Dated: November 24, 2014.

Roy E. Wright,

Deputy Associate Administrator for Mitigation, Department of Homeland Security, Federal Emergency Management Agency.

State and county	Location and case No.	Chief executive officer of community	Community map repository	Online location of letter of map revision	Effective date of modification	Community No.
Connecticut:						
Fairfield	City of Stamford (14–01–2347P).	The Honorable David Martin, Mayor, City of Stamford 888 Washington Boulevard, Stamford, CT 06901.	888 Washington Boulevard, Stamford, CT 06901.	*http://www.msc.fema.gov/lomc.*	February 19, 2015.	090015
Fairfield	Town of Darien (14–01–3341P).	Ms. Jayme J. Stevenson, First Selectman, Town of Darien, 2 Renshaw Road, Darien, CT 06820.	2 Renshaw Road, Darien, CT 06820.	*http://www.msc.fema.gov/lomc.*	March 9, 2015	090005
Fairfield	Town of Trumbull (14–01–2179P).	Mr. Timothy M. Herbst, First Selectman, Town of Trumbull, 5866 Main Street, Trumbull, CT 06611.	5866 Main Street, Trumbull, CT 06611.	*http://www.msc.fema.gov/lomc.*	March 6, 2015	090017
New Haven	City of West Haven (14–01–2474P).	The Honorable Edward M. O'Brien, Mayor, City of West Haven, 355 Main Street, West Haven, CT 06516.	355 Main Street, West Haven, CT 06516.	*http://www.msc.fema.gov/lomc.*	March 7, 2015	090092
Indiana:						
Dearborn	City of Lawrenceburg (14–05–2910P).	The Honorable Dennis Carr, Mayor, City of Lawrenceburg, 230 Walnut Street, Lawrenceburg, IN 47025.	230 Walnut Street, Lawrenceburg, IN 47025.	*http://www.msc.fema.gov/lomc.*	March 20, 2015	180041
Dearborn	Unincorporated areas of Dearborn County. (14–05–2910P).	The Honorable Shane McHenry, President, Dearborn County Board of Commissioners, 215 B West High Street, Lawrenceburg, IN 47025.	215 B West High Street, Lawrenceburg, IN 47025.	*http://www.msc.fema.gov/lomc.*	March 20, 2015	180038
Monroe	City of Bloomington (14–05–6705P).	The Honorable Mark Kruzan, Mayor, City of Bloomington, 401 North Morton Street, Suite 210 Bloomington, IN 47404.	401 North Morton Street, Bloomington, IN 47404.	*http://www.msc.fema.gov/lomc.*	February 11, 2015.	180169
Kansas:						
Sedgwick	City of Wichita (14–07–2054P).	The Honorable Carl Brewer, Mayor, City of Wichita, 455 North Main, 1st Floor Wichita, KS 67202.	455 North Main, Wichita, KS 67202.	*http://www.msc.fema.gov/lomc.*	March 5, 2015	200328
Sedgwick	Unincorporated areas of Sedgwick County (14–07–2054P).	The Honorable James Skelton, Commissioner, Sedgwick County, 525 North Main, Suite 320 Wichita, KS 67203.	525 North Main, Wichita, KS 67203.	*http://www.msc.fema.gov/lomc.*	March 5, 2015	200321
Ohio:						
Franklin	City of Grove City (13–05–7763P).	The Honorable Richard Stage, Mayor, City of Grove City, 4035 Broadway Grove City, OH 43123.	4035 Broadway, Grove City, OH 43123.	*http://www.msc.fema.gov/lomc.*	March 12, 2015	390173
Franklin	Unincorporated areas of Franklin County (13–05–7763P).	The Honorable Marilyn Brown, President, Franklin County Board of Commissioners, 373 South High Street, 26th Floor, Columbus, OH 43215.	373 South High Street, Columbus, OH 43215.	*http://www.msc.fema.gov/lomc.*	March 12, 2015	390167

[FR Doc. 2014–29135 Filed 12–10–14; 8:45 am]
BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2014–0002; Internal Agency Docket No. FEMA–B–1449]

Changes in Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice lists communities where the addition or modification of Base Flood Elevations (BFEs), base flood depths, Special Flood Hazard Area (SFHA) boundaries or zone designations, or the regulatory floodway (hereinafter referred to as flood hazard determinations), as shown on the Flood Insurance Rate Maps (FIRMs), and where applicable, in the supporting Flood Insurance Study (FIS) reports, prepared by the Federal Emergency Management Agency (FEMA) for each community, is appropriate because of new scientific or technical data. The FIRM, and where applicable, portions of the FIS report, have been revised to reflect these flood hazard determinations through issuance of a Letter of Map Revision (LOMR), in accordance with Title 44, Part 65 of the Code of Federal Regulations (44 CFR part 65). The LOMR will be used by insurance agents and others to calculate appropriate flood insurance premium rates for new buildings and the contents of those buildings. For rating purposes, the currently effective community number is shown in the table below and must be used for all new policies and renewals.

DATES: These flood hazard determinations will become effective on the dates listed in the table below and revise the FIRM panels and FIS report in effect prior to this determination for the listed communities.

From the date of the second publication of notification of these changes in a newspaper of local circulation, any person has 90 days in which to request through the community that the Deputy Associate Administrator for Mitigation reconsider the changes. The flood hazard determination information may be changed during the 90-day period.

ADDRESSES: The affected communities are listed in the table below. Revised flood hazard information for each community is available for inspection at both the online location and the respective community map repository address listed in the table below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *www.msc.fema.gov* for comparison.

Submit comments and/or appeals to the Chief Executive Officer of the community as listed in the table below.

FOR FURTHER INFORMATION CONTACT: Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, FEMA, 500 C Street SW., Washington, DC 20472, (202) 646–4064, or (email) *Luis.Rodriguez3@fema.dhs.gov;* or visit the FEMA Map Information eXchange (FMIX) online at *www.floodmaps.fema.gov/fhm/fmx_main.html.*

SUPPLEMENTARY INFORMATION: The specific flood hazard determinations are not described for each community in this notice. However, the online location and local community map repository address where the flood hazard determination information is available for inspection is provided.

Any request for reconsideration of flood hazard determinations must be submitted to the Chief Executive Officer of the community as listed in the table below.

The modifications are made pursuant to section 201 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.,* and with 44 CFR part 65.

The FIRM and FIS report are the basis of the floodplain management measures that the community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These flood hazard determinations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities. The flood hazard determinations are in accordance with 44 CFR 65.4.

The affected communities are listed in the following table. Flood hazard determination information for each community is available for inspection at both the online location and the respective community map repository address listed in the table below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *www.msc.fema.gov* for comparison.

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Dated: October 31, 2014.

Roy E. Wright,

Deputy Associate Administrator for Mitigation, Department of Homeland Security, Federal Emergency Management Agency.

State and county	Location and case No.	Chief executive officer of community	Community map repository	Online location of letter of map revision	Effective date of modification	Community No.
Connecticut:						
Fairfield	Town of Darien (14–01–1743P).	The Honorable Jayme J. Stevenson, First Selectman, Town of Darien, 2 Renshaw Road, Darien, CT 06820..	2 Renshaw Road, Darien, CT 06820.	*http://www.msc.fema.gov/lomc*	February 13, 2015.	090005
Fairfield	Town of Darien (14–01–3341P).	The Honorable Jayme J. Stevenson, First Selectman, Town of Darien, 2 Renshaw Road, Darien, CT 06820.	2 Renshaw Road, Darien, CT 06820.	*http://www.msc.fema.gov/lomc*	March 09, 2015	090005
Illinois:						

State and county	Location and case No.	Chief executive officer of community	Community map repository	Online location of letter of map revision	Effective date of modification	Community No.
Peoria	City of Peoria (14–05–7931P).	The Honorable Jim Ardis, Mayor, City of Peoria, 419 Fulton Street, Room 207, Peoria, IL 61602.	419 Fulton Street, Room 207, Peoria, IL 61602.	*http://www.msc.fema.gov/lomc*	February 18, 2015.	170536
Peoria	Unincorporated Areas of Peoria County (14–05–7931P).	The Honorable Thomas O'Neil, Chairman, Peoria County, 324 Main Street, Peoria, IL 61602.	324 Main Street, Peoria, IL 61602.	*http://www.msc.fema.gov/lomc*	February 18, 2015.	170533
Will	City of Naperville (14–05–5854P).	The Honorable A. George Pradel, Mayor, City of Naperville, 400 South Eagle Street, Naperville, IL 60540.	400 South Eagle Street, Naperville, IL 60540.	*http://www.msc.fema.gov/lomc*	February 16, 2015.	170213
Indiana:						
Marion	City of Indianapolis (14–05–4021P).	The Honorable Gregory A. Ballard, Mayor, City of Indianapolis, 200 East Washington Street, Indianapolis, IN 46204.	200 East Washington Street, Indianapolis, IN 46204.	*http://www.msc.fema.gov/lomc*	February 4, 2015	180159
Iowa:						
Woodbury	City of Sioux City (14–07–1433P).	The Honorable Bob Scott, Mayor, City of Sioux City, 405 6th Street, Sioux City, IA 51102.	405 6th Street, Sioux City, IA 51102.	*http://www.msc.fema.gov/lomc*	February 10, 2015.	190298
Kansas:						
Butler	City of Andover (14–07–1469P).	The Honroable Ben Lawrence, Mayor, City of Andover, 1609 East Central Avenue, Andover, KS 67002.	1609 East Central Avenue, Andover, KS 67002.	*http://www.msc.fema.gov/lomc*	February 13, 2015.	200383
Butler	Unincorporated Areas Of Butler County (14–07–1469P).	Mr. William Johnson, County Administrator, Butler County, 205 West Central, El Dorado, KS 67042.	205 West Central, El Dorado, KS 67042.	*http://www.msc.fema.gov/lomc*	February 13, 2015.	200037
Michigan:						
Macomb	Township of Washington (14–05–2918P).	The Honorable Dan O'Leary, Supervisor, Township of Washington, 57900 Van Dyke Road, Washington Township, MI 48094.	57900 Van Dyke Road, Washington Township, MI 48094.	*http://www.msc.fema.gov/lomc*	February 03, 2015.	260447
Oakland	City of Troy (14–05–4347P).	The Honorable Dan Slater, Mayor, City of Troy, 500 West Big Beaver Road, Troy, MI 48084.	500 West Big Beaver Road, Troy, MI 48084.	*http://www.msc.fema.gov/lomc*	February 03, 2015.	260180
Minnesota:						
Washington	City of Woodbury (14–05–4889P).	The Honorable Mary Giuliani-Stephens, Mayor, City of Woodbury, 8301 Valley Creek Road, Woodbury, MN 55125.	8301 Valley Creek Road, Woodbury, MN 55125.	*http://www.msc.fema.gov/lomc*	February 05, 2015.	270699
Ohio:						
Butler	City of Monroe (14–05–5954P).	The Honroable Robert E. Routson, Mayor, City of Monroe, 233 South Main Street, Monroe, OH 45050.	233 South Main Street, Monroe, OH 45050.	*http://www.msc.fema.gov/lomc*	February 16, 2015.	390042
Oregon:						
Tillamook	City of Nehalem (14–10–1695P).	The Honroable Shirley Kalkhoven, Mayor, City of Nehalem, 35900 8th Street, Nehalem, OR 97131.	35900 8th Street, Nehalem, OR 97131.	*http://www.msc.fema.gov/lomc*	February 11, 2015.	410200
Tillamook	Unincorporated Areas of Tillamook (14–10–1695P).	The Honorbale Tim Josi, Board of County Commissioners, Tillamook County, 201 Laurel Avenue, Tillamook, OR 97141.	201 Laurel Avenue, Tillamook, OR 97141.	*http://www.msc.fema.gov/lomc*	February 11, 2015.	410196
Tillamook	Unincorporated Areas of Tillamook (14–10–1696P).	The Honorbale Tim Josi, Board of County Commissioners, Tillamook County, 201 Laurel Avenue, Tillamook, OR 97141.	201 Laurel Avenue, Tillamook, OR 97141.	*http://www.msc.fema.gov/lomc*	February 11, 2015.	410196

[FR Doc. 2014–29092 Filed 12–10–14; 8:45 am]
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DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2014–0002]

Changes in Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Final Notice.

SUMMARY: New or modified Base (1-percent annual chance) Flood Elevations (BFEs), base flood depths, Special Flood Hazard Area (SFHA) boundaries or zone designations, and/or regulatory floodways (hereinafter referred to as flood hazard determinations) as shown on the indicated Letter of Map Revision (LOMR) for each of the communities listed in the table below are finalized. Each LOMR revises the Flood Insurance Rate Maps (FIRMs), and in some cases the Flood Insurance Study (FIS) reports, currently in effect for the listed communities. The flood hazard determinations modified by each LOMR will be used to calculate flood insurance premium rates for new buildings and their contents.

DATES: The effective date for each LOMR is indicated in the table below.

ADDRESSES: Each LOMR is available for inspection at both the respective Community Map Repository address listed in the table below and online through the FEMA Map Service Center at *www.msc.fema.gov.*

FOR FURTHER INFORMATION CONTACT: Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, FEMA, 500 C Street SW., Washington, DC 20472, (202) 646–4064, or (email) *Luis.Rodriguez3@fema.dhs.gov;* or visit the FEMA Map Information eXchange (FMIX) online at *www.floodmaps.fema.gov/fhm/fmx_main.html.*

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) makes the final flood hazard determinations as shown in the LOMRs for each community listed in the table below. Notice of these modified flood hazard determinations has been published in newspapers of local circulation and 90 days have elapsed since that publication. The Deputy Associate Administrator for Mitigation has resolved any appeals resulting from this notification.

The modified flood hazard determinations are made pursuant to section 206 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.,* and with 44 CFR part 65.

For rating purposes, the currently effective community number is shown and must be used for all new policies and renewals.

The new or modified flood hazard information is the basis for the floodplain management measures that the community is required either to adopt or to show evidence of being already in effect in order to remain qualified for participation in the National Flood Insurance Program (NFIP).

This new or modified flood hazard information, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities.

This new or modified flood hazard determinations are used to meet the floodplain management requirements of the NFIP and also are used to calculate the appropriate flood insurance premium rates for new buildings, and for the contents in those buildings. The changes in flood hazard determinations are in accordance with 44 CFR 65.4.

Interested lessees and owners of real property are encouraged to review the final flood hazard information available at the address cited below for each community or online through the FEMA Map Service Center at *www.msc.fema.gov.*

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Dated: November 24, 2014.

Roy E. Wright,

Deputy Associate Administrator for Mitigation, Department of Homeland Security, Federal Emergency Management Agency.

State and county	Location and case No.	Chief executive officer of community	Community map repository	Effective date of modification	Community No.
Alabama:					
Madison (FEMA Docket No.: B–1423).	City of Huntsville (14–04–3285P).	The Honorable Tommy Battle, Mayor, City of Huntsville, P.O. Box 308, Huntsville, AL 35801.	Engineering Department, 320 Fountain Circle, Huntsville, AL 35804.	Oct. 3, 2014	010153
Arizona:					
Maricopa (FEMA Docket No.: B–1435).	City of Scottsdale (14–09–0808P).	The Honorable Jim Lane, Mayor, City of Scottsdale, 3939 North Drinkwater Boulevard, Scottsdale, AZ 85251.	City Hall, 3939 North Drinkwater Boulevard, Scottsdale, AZ 85251.	Oct. 17, 2014	045012
Maricopa (FEMA Docket No.: B–1435).	Town of Queen Creek (14–09–1090P).	The Honorable Gail Barney, Mayor, Town of Queen Creek, 22350 South Ellsworth Road, Queen Creek, AZ 85142.	Town Hall, 22350 South Ellsworth Road, Queen Creek, AZ 85142.	Oct. 24, 2014	040132
Maricopa (FEMA Docket No.: B–1435).	Unincorporated areas of Maricopa County (14–09–1090P).	The Honorable Denny Barney, Chairman, Maricopa County Board of Supervisors, 301 West Jefferson, 10th Floor, Phoenix, AZ 85003.	Maricopa County Flood Control District, 2801 West Durango Street, Phoenix, AZ 85009.	Oct. 24, 2014	040037
Pima (FEMA Docket No.: B–1428).	City of Tucson (13–09–3317P).	The Honorable Jonathan Rothschild, Mayor, City of Tucson, 255 West Alameda, 10th Floor, Tucson, AZ 85701.	Planning and Development Services Department, 201 North Stone, 1st Floor, Tucson, AZ 85701.	Sept. 29, 2014	040076

State and county	Location and case No.	Chief executive officer of community	Community map repository	Effective date of modification	Community No.
Pima (FEMA Docket No.: B–1428).	Town of Marana (14–09–1828P).	The Honorable Ed Honea, Mayor, Town of Marana, 11555 West Civic Center Drive, Marana, AZ 85653.	Engineering Department, 11555 West Civic Center Drive, Marana, AZ 85653.	Sept. 29, 2014	040118
California:					
Alameda (FEMA Docket No.: B–1428).	City of Fremont (13–09–2956P).	The Honorable Bill Harrison, Mayor, City of Fremont, 3300 Capitol Avenue, Fremont, CA 94538.	Development Services Center, 39550 Liberty Street, Fremont, CA 94538.	Oct. 13, 2014	065028
Kern (FEMA Docket No.: B–1428).	City of Delano (14–09–2143P).	The Honorable Grace Vallejo, Mayor, City of Delano, P.O. Box 3010, Delano, CA 93216.	Community Development Department, 1015 11th Avenue, Delano, CA 93216.	Sept. 26, 2014	060078
Orange (FEMA Docket No.: B–1435).	City of Newport Beach (14–09–2874P).	The Honorable Rush N. Hill, II, Mayor, City of Newport Beach, 100 Civic Center Drive, Newport Beach, CA 92660.	City Hall, 100 Civic Center Drive, Newport Beach, CA 92660.	Oct. 30, 2014	060227
Riverside (FEMA Docket No.: B–1442).	Unincorporated areas of Riverside County (14–09–1024P).	The Honorable Jeff Stone, Chairman, Riverside County Board of Supervisors, 4080 Lemon Street, 5th Floor, Riverside, CA 92501.	Riverside County Flood Control and Water Conservation District, 1995 Market Street, Riverside, CA 92501.	Oct. 20, 2014	060245
San Diego (FEMA Docket No.: B–1435).	Unincorporated areas of San Diego County (14–09–0364P).	The Honorable Dianne Jacob, Chair, San Diego County Board of Supervisors, 1600 Pacific Highway, San Diego, CA 92101.	San Diego County Department of Public Works, Flood Control Division, 5510 Overland Avenue, Suite 410, San Diego, CA 92123.	Oct. 16, 2014	060284
Colorado:					
Boulder (FEMA Docket No.: B–1435).	City of Longmont (14–08–0987P).	The Honorable Dennis L. Coombs, Mayor, City of Longmont, 350 Kimbark Street, Longmont, CO 80501.	Service Center, 1100 South Sherman Street, Longmont, CO 80501.	Oct. 22, 2014	080027
El Paso (FEMA Docket No.: B–1428).	Unincorporated areas of El Paso County (14–08–0489P).	The Honorable Dennis Hisey, Chairman, El Paso County Board of Commissioners, 200 South Cascade Avenue, Suite 100, Colorado Springs, CO 80903.	El Paso County Floodplain Administrator, 2880 International Circle, Colorado Springs, CO 80910.	Oct. 14, 2014	080059
Jefferson (FEMA Docket No.: B–1435).	City of Arvada (14–08–0099P).	The Honorable Marc Williams, Mayor, City of Arvada, P.O. Box 8101, Arvada, CO 80001.	City Hall, 8101 Ralston Road, Arvada, CO 80001.	Oct. 17, 2014	085072
Florida:					
Charlotte (FEMA Docket No.: B–1435).	Unincorporated areas of Charlotte County (14–04–2502P).	The Honorable Ken Doherty, Chairman, Charlotte County Board of Commissioners, 18500 Murdock Circle, Port Charlotte, FL 33948.	Charlotte County Community Development Department, 18500 Murdock Circle, Port Charlotte, FL 33948.	Oct. 16, 2014	120061
Duval (FEMA Docket No.: B–1435).	City of Jacksonville (14–04–2078P).	The Honorable Alvin Brown, Mayor, City of Jacksonville, 117 West Duval Street, Jacksonville, FL 32202.	City Hall, 117 West Duval Street, Jacksonville, FL 32202.	Oct. 27, 2014	120077
Manatee and Sarasota (FEMA Docket No.: B–1435).	Town of Longboat Key (14–04–3983P).	The Honorable Jim Brown, Mayor, Town of Longboat Key, 501 Bay Isles Road, Longboat Key, FL 34228.	Planning, Zoning, and Building Department, 501 Bay Isles Road, Longboat Key, FL 34228.	Oct. 30, 2014	125126
Marion (FEMA Docket No.: B–1428).	Unincorporated areas of Marion County (14–04–2852P).	The Honorable Carl Zalak, III, Chairman, Marion County Board of Commissioners, 601 Southeast 25th Avenue, Ocala, FL 34471.	Transportation Department, 412 Southeast 25th Avenue, Ocala, FL 34471.	Oct. 13, 2014	120160
Monroe (FEMA Docket No.: B–1435).	Unincorporated areas of Monroe County (14–04–4077P).	The Honorable Sylvia Murphy, Mayor, Monroe County, 1100 Simonton Street, Key West, FL 33040.	Monroe County Planning and Environmental Resources Department, 2798 Overseas Highway, Marathon, FL 33050.	Oct. 14, 2014	125129
Orange (FEMA Docket No.: B–1435).	Unincorporated areas of Orange County (14–04–0780P).	The Honorable Teresa Jacobs, Mayor, Orange County, 201 South Rosalind Avenue, 5th Floor, Orlando, FL 32801.	Orange County Stormwater Management Department, 4200 South John Young Parkway, Orlando, FL 32839.	Oct. 17, 2014	120179
Osceola (FEMA Docket No.: B–1435).	Unincorporated areas of Osceola County (14–04–0490P).	The Honorable Fred Hawkins, Jr., Chairman, Osceola County Board of Commissioners, 1 Courthouse Square, Suite 4700, Kissimmee, FL 34741.	Osceola County Stormwater Section, 1 Courthouse Square, Suite 1400, Kissimmee, FL 34741.	Oct. 17, 2014	120189
Polk (FEMA Docket No.: B–1435).	Unincorporated areas of Polk County (14–04–2776P).	The Honorable R. Todd Dantzler, Chairman, Polk County Board of Commissioners, P.O. Box 9005, Bartow, FL 33831.	Polk County Engineering Division, 330 West Church Street, Bartow, FL 33831.	Oct. 16, 2014	120261

State and county	Location and case No.	Chief executive officer of community	Community map repository	Effective date of modification	Community No.
Sarasota (FEMA Docket No.: B–1435).	City of Sarasota (14–04–3830P).	The Honorable Willie Charles Shaw, Mayor, City of Sarasota, 1565 1st Street, Sarasota, FL 34236.	City Hall, 1565 1st Street, Sarasota, FL 34236.	Oct. 22, 2014	125150
Sarasota (FEMA Docket No.: B–1435).	Unincorporated areas of Sarasota County (14–04–3759P).	The Honorable Charles D. Hines, Chairman, Sarasota County Commission, 1660 Ringling Boulevard, Sarasota, FL 34236.	Sarasota County Stormwater Management Department, 1001 Sarasota Center Boulevard, Sarasota, FL 34240.	Oct. 15, 2014	125144
Walton (FEMA Docket No.: B–1428).	City of Freeport (14–04–1147P).	The Honorable Russ Barley, Mayor, City of Freeport, P.O. Box 339, Freeport, FL 32439.	City Hall, 112 Highway 20 West, Freeport, FL 32439.	Oct. 10, 2014	120319
Georgia:					
Columbia (FEMA Docket No.: B–1435).	Unincorporated areas of Columbia County (13–04–8279P).	The Honorable Ron C. Cross, Chairman, Columbia County Board of Commissioners, 630 Ronald Regan Drive, Building B, Evans, GA 30809.	Columbia County Engineering Division, 630 Ronald Regan Drive, Building A, Evans, GA 30809.	Oct. 16, 2014	130059
Gwinnett (FEMA Docket No.: B–1435).	City of Lilburn (13–04–4606P).	The Honorable Johnny D. Crist, Mayor, City of Lilburn, 76 Main Street, Lilburn, GA 30047.	City Hall, 76 Main Street, Lilburn, GA 30047.	Oct. 10, 2014	130100
Richmond (FEMA Docket No.: B–1435).	Augusta-Richmond County (13–04–2899P).	The Honorable Deke S. Copenhaver, Mayor, Augusta-Richmond County, 75 Conifer Circle, Augusta, GA 30909.	Augusta-Richmond County Planning and Zoning Department, 525 Telfair Street, Augusta, GA 30901.	Oct. 17, 2014	130158
Kentucky:					
Jefferson (FEMA Docket No.: B–1428).	Louisville-Jefferson County Metro Government (14–04–0120P).	The Honorable Greg Fischer, Mayor, Louisville-Jefferson County Metro Government, 527 West Jefferson Street, Louisville, KY 40202.	Metropolitan Sewer District, 700 West Liberty Street, Louisville, KY 40203.	Sept. 29, 2014	210120
Mississippi:					
Oktibbeha (FEMA Docket No.: B–1428).	City of Starkville (12–04–7758P).	The Honorable Parker Wiseman, Mayor, City of Starkville, 101 East Lampkin Street, Starkville, MS 39759.	City Hall, 101 East Lampkin Street, Starkville, MS 39759.	Oct. 6, 2014	280124
Oktibbeha (FEMA Docket No.: B–1428).	Unincorporated areas of Oktibbeha County (12–04–7758P).	The Honorable Orlando Trainer, President, Oktibbeha County Board of Supervisors, 101 East Lampkin Street, Starkville, MS 39759.	Oktibbeha County Courthouse, 101 East Lampkin Street, Starkville, MS 39759.	Oct. 6, 2014	280277
Nevada:					
Clark (FEMA Docket No.: B–1435).	City of Henderson (14–09–0094P).	The Honorable Andy Hafen, Mayor, City of Henderson, P.O. Box 95050, Henderson, NV 89009.	Public Works Department, 240 Water Street, Henderson, NV 89015.	Oct. 2, 2014	320005
Washoe (FEMA Docket No.: B–1435).	Unincorporated areas of Washoe County (14–09–1338P).	The Honorable David Humke, Chairman, Washoe County Board of Commissioners, P.O. Box 11130, Reno, NV 89512.	Washoe County Public Works Department, 1001 East 9th Street, Reno, NV 89512.	Oct. 20, 2014	320019
New York:					
Westchester (FEMA Docket No.: B–1421).	Village of Mamaroneck (14–02–0594P).	The Honorable Norman S. Rosenblum, Mayor, Village of Mamaroneck, 123 Mamaroneck Avenue, Mamaroneck, NY 10543.	Building Inspector's Office, 123 Mamaroneck Avenue, Mamaroneck, NY 10543.	Sept. 26, 2014	360916
North Carolina:					
Buncombe (FEMA Docket No.: B–1423).	City of Asheville (14–04–3620P).	The Honorable Esther E. Manheimer, Mayor, City of Asheville, P.O. Box 7148, Asheville, NC 28802.	Public Works Department, 161 South Charlotte Street, Asheville, NC 28802.	Sept. 2, 2014	370032
Franklin (FEMA Docket No.: B–1435).	Unincorporated areas of Franklin County (14–04–1007P).	Ms. Angela L. Harris, Franklin County Manager, 113 Market Street, Louisburg, NC 27549.	Franklin County Planning and Inspections Office, 215 East Nash Street, Louisburg, NC 27549.	Oct. 17, 2014	370377
North Dakota:					
Bowman (FEMA Docket No.: B–1435).	City of Bowman (14–08–0180P).	The Honorable Lyn James, President, City of Bowman Commission, P.O. Box 12, Bowman, ND 58623.	Zoning Administrator's Office, 104 1st Street, NW., Bowman, ND 58623.	Oct. 6, 2014	380012
South Carolina:					
Aiken (FEMA Docket No.: B–1435).	City of North Augusta (13–04–2899P).	The Honorable Lark W. Jones, Mayor, City of North Augusta, 100 Georgia Avenue, North Augusta, SC 29841.	City Hall, 100 Georgia Avenue, North Augusta, SC 29841.	Oct. 17, 2014	450007

State and county	Location and case No.	Chief executive officer of community	Community map repository	Effective date of modification	Community No.
Aiken (FEMA Docket No.: B–1435).	Unincorporated areas of Aiken County (13–04–2899P).	The Honorable Ronnie Young, Chairman, Aiken County Council, 220 Deerwood Drive, North Augusta, SC 29841.	Aiken County Planning and Zoning Department, 1680 Richmond Avenue West, North Augusta, SC 29801.	Oct. 17, 2014	450002
Richland (FEMA Docket No.: B–1435).	City of Columbia (13–04–7561P).	The Honorable Steve Benjamin, Mayor, City of Columbia, P.O. Box 147, Columbia, SC 29217.	Department of Engineering, P.O. Box 147, Columbia, SC 29217.	Oct. 27, 2014	450172
Richland (FEMA Docket No.: B–1435).	Unincorporated areas of Richland County (13–04–7561P).	The Honorable Norman Jackson, Chairman, Richland County Council, P.O. Box 90617, Columbia, SC 29209.	Richland County Courthouse, 1701 Main Street, Columbia, SC 29202.	Oct. 27, 2014	450170

[FR Doc. 2014–29136 Filed 12–10–14; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2014–0002; Internal Agency Docket No. FEMA–B–1448]

Changes in Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice lists communities where the addition or modification of Base Flood Elevations (BFEs), base flood depths, Special Flood Hazard Area (SFHA) boundaries or zone designations, or the regulatory floodway (hereinafter referred to as flood hazard determinations), as shown on the Flood Insurance Rate Maps (FIRMs), and where applicable, in the supporting Flood Insurance Study (FIS) reports, prepared by the Federal Emergency Management Agency (FEMA) for each community, is appropriate because of new scientific or technical data. The FIRM, and where applicable, portions of the FIS report, have been revised to reflect these flood hazard determinations through issuance of a Letter of Map Revision (LOMR), in accordance with Title 44, part 65 of the Code of Federal Regulations (44 CFR part 65). The LOMR will be used by insurance agents and others to calculate appropriate flood insurance premium rates for new buildings and the contents of those buildings. For rating purposes, the currently effective community number is shown in the table below and must be used for all new policies and renewals.

DATES: These flood hazard determinations will become effective on the dates listed in the table below and revise the FIRM panels and FIS report in effect prior to this determination for the listed communities.

From the date of the second publication of notification of these changes in a newspaper of local circulation, any person has 90 days in which to request through the community that the Deputy Associate Administrator for Mitigation reconsider the changes. The flood hazard determination information may be changed during the 90-day period.

ADDRESSES: The affected communities are listed in the table below. Revised flood hazard information for each community is available for inspection at both the online location and the respective community map repository address listed in the table below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *www.msc.fema.gov* for comparison.

Submit comments and/or appeals to the Chief Executive Officer of the community as listed in the table below.

FOR FURTHER INFORMATION CONTACT: Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, FEMA, 500 C Street SW., Washington, DC 20472, (202) 646–4064, or (email) *Luis.Rodriguez3@fema.dhs.gov;* or visit the FEMA Map Information eXchange (FMIX) online at *www.floodmaps.fema.gov/fhm/fmx_main.html.*

SUPPLEMENTARY INFORMATION: The specific flood hazard determinations are not described for each community in this notice. However, the online location and local community map repository address where the flood hazard determination information is available for inspection is provided.

Any request for reconsideration of flood hazard determinations must be submitted to the Chief Executive Officer of the community as listed in the table below.

The modifications are made pursuant to section 201 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.,* and with 44 CFR part 65.

The FIRM and FIS report are the basis of the floodplain management measures that the community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These flood hazard determinations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities. The flood hazard determinations are in accordance with 44 CFR 65.4.

The affected communities are listed in the following table. Flood hazard determination information for each community is available for inspection at both the online location and the respective community map repository address listed in the table below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *www.msc.fema.gov* for comparison.

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Dated: October 31, 2014.

Roy E. Wright,

Deputy Associate Administrator for Mitigation, Department of Homeland Security, Federal Emergency Management Agency.

State and county	Location and case no.	Chief executive officer of community	Community map repository	Online location of letter of map revision	Effective date of modification	Community No.
Arizona:						
Maricopa	Unincorporated areas of Maricopa County (14–09–2380P).	The Honorable Denny Barney, Chairman, Maricopa County Board of Supervisors, 301 West Jefferson, 10th Floor, Phoenix, AZ 85003.	Maricopa County Flood Control District, 2801 West Durango Street, Phoenix, AZ 85009.	*http://www.msc.fema.gov/lomc.*	December 19, 2014	040037
Mohave	Unincorporated areas of Mohave County (14–09–0137P).	The Honorable Hildy Angius, Chair, Mohave County Board of Supervisors, 700 West Beale Street, Kingman, AZ 86401.	Mohave County Administration Building, 700 West Beale Street, Kingman, AZ 86401.	*http://www.msc.fema.gov/lomc.*	December 22, 2014	040058
Pinal	Town of Florence (13–09–2571P).	The Honorable Tom Rankin, Mayor, Town of Florence, P.O. Box 2670, Florence, AZ 85132.	Department of Public Works, 425 East Ruggles, Florence, AZ 85232.	*http://www.msc.fema.gov/lomc.*	December 17, 2014	040084
Pinal	Unincorporated areas of Pinal County (13–09–2571P).	The Honorable Anthony Smith, Chairman, Pinal County Board of Supervisors, 41600 West Smith Enke Road, Suite 128, Maricopa, AZ 85138.	Pinal County, Engineering Department, 31 North Pinal Street, Building F, Florence, AZ 85232.	*http://www.msc.fema.gov/lomc.*	December 17, 2014	040077
California:						
Alameda	City of Fremont (14–09–0995P).	The Honorable Bill Harrison, Mayor, City of Fremont, 3300 Capitol Avenue, Fremont, CA 94538.	Development Services Center, 39550 Liberty Street, Fremont, CA 94538.	*http://www.msc.fema.gov/lomc.*	December 29, 2014	065028
Alameda	City of Fremont (14–09–3370P).	The Honorable Bill Harrison, Mayor, City of Fremont, 3300 Capitol Avenue, Fremont, CA 94538.	Development Services Center, 39550 Liberty Street, Fremont, CA 94538.	*http://www.msc.fema.gov/lomc.*	December 29, 2014	065028
Imperial	Unincorporated areas of Imperial County (14–09–3275P).	The Honorable John Renison, Chairman, Imperial County Board of Supervisors, 940 Main Street, Suite 209, El Centro, CA 92243.	Imperial County Public Works Department, 155 South 11th Street, El Centro, CA 92243.	*http://www.msc.fema.gov/lomc.*	January 8, 2015	060065
Los Angeles	City of Palmdale (14–09–1102P).	The Honorable James C. Ledford, Jr., Mayor, City of Palmdale, 38300 Sierra Highway, Palmdale, CA 93550.	Public Works Department, 38300 Sierra Highway, Palmdale, CA 93550.	*http://www.msc.fema.gov/lomc.*	January 8, 2015	060144
Ventura	City of Camarillo (14–09–2662P).	The Honorable Kevin Kildee, Mayor, City of Camarillo, 601 Carmen Drive, Camarillo, CA 93010.	Public Works Department, 601 Carmen Drive, Camarillo, CA 93010.	*http://www.msc.fema.gov/lomc.*	December 18, 2014	065020
Ventura	Unincorporated areas of Ventura County (14–09–2662P).	The Honorable Steve Bennett, Chairman, Ventura County Board of Supervisors, 800 South Victoria Avenue, Ventura, CA 93009.	Ventura County Public Works Department, 800 South Victoria Avenue, Ventura, CA 93009.	*http://www.msc.fema.gov/lomc.*	December 18, 2014	060413
Colorado:						
Adams	City of Aurora (14–08–0672P).	The Honorable Steve Hogan, Mayor, City of Aurora, 15151 East Alameda Parkway, Aurora, CO 80012.	Engineering Department, 15151 East Alameda Parkway, Aurora, CO 80012.	*http://www.msc.fema.gov/lomc.*	December 19, 2014	080002
Eagle	Town of Basalt (14–08–0868P).	The Honorable Jacque Whitsitt, Mayor, Town of Basalt, 101 Midland Avenue, Basalt, CO 81621.	Town Hall, 101 Midland Avenue, Basalt, CO 81621.	*http://www.msc.fema.gov/lomc.*	November 28, 2014	080052
Eagle	Unincorporated areas of Eagle County (14–08–0868P).	The Honorable Jill Ryan, Chair, Eagle County Board of Commissioners, P.O. Box 850, Eagle, CO 81631.	Eagle County Building and Engineering Department, 500 Broadway Street, Eagle, CO 81631.	*http://www.msc.fema.gov/lomc.*	November 28, 2014	080051

State and county	Location and case no.	Chief executive officer of community	Community map repository	Online location of letter of map revision	Effective date of modification	Community No.
Larimer	City of Fort Collins (14–08–0580P).	The Honorable Karen Weitkunat, Mayor, City of Fort Collins, P.O. Box 580, Fort Collins, CO 80522.	Stormwater Utilities Department, 700 Wood Street, Fort Collins, CO 80521.	*http://www.msc.fema.gov/lomc.*	December 15, 2014	080102
Larimer	Unincorporated areas of Larimer County (14–08–0580P).	The Honorable Tom Donnelly, Chairman, Larimer County Board of Commissioners, P.O. Box 1190, Fort Collins, CO 80522.	Larimer County Engineering Department, 200 West Oak Street, Fort Collins, CO 80521.	*http://www.msc.fema.gov/lomc.*	December 15, 2014	080101
Florida:						
Bay	Unincorporated areas of Bay County (13–04–8550P).	The Honorable Guy M. Tunnel, Chairman, Bay County Board of Commissioners, 840 West 11th Street, Panama City, FL 32401.	Bay County Planning And Zoning Department, 707 Jenks Avenue, Panama City, FL 32401.	*http://www.msc.fema.gov/lomc.*	December 26, 2014	120004
Charlotte	Unincorporated areas of Charlotte County (14–04–5938P).	The Honorable Ken Doherty, Chairman, Charlotte County Board of Commissioners, 18500 Murdock Circle, Port Charlotte, FL 33948.	Charlotte County Community Development Department, 18500 Murdock Circle, Port Charlotte, FL 33948.	*http://www.msc.fema.gov/lomc.*	January 5, 2015	120061
Collier	City of Marco Island (14–04–5224P).	The Honorable Kenneth E. Honecker, Chairman, Marco Island City Council, 50 Bald Eagle Drive, Marco Island, FL 34145.	City Hall, 50 Bald Eagle Drive, Marco Island, FL 34145.	*http://www.msc.fema.gov/lomc.*	December 26, 2014	120426
Collier	City of Marco Island (14–04–5856P).	The Honorable Kenneth E. Honecker, Chairman, Marco Island City Council, 50 Bald Eagle Drive, Marco Island, FL 34145.	City Hall, 50 Bald Eagle Drive, Marco Island, FL 34145.	*http://www.msc.fema.gov/lomc.*	December 11, 2014	120426
Duval	City of Atlantic Beach (14–04–0427P).	The Honorable Carolyn Woods, Mayor, City of Atlantic Beach, 800 Seminole Road, Atlantic Beach, FL 32233.	City Hall, 800 Seminole Road, Atlantic Beach, FL 32233.	*http://www.msc.fema.gov/lomc.*	December 22, 2014	120075
Duval	City of Jacksonville (14–04–0427P).	The Honorable Alvin Brown, Mayor, City of Jacksonville, 117 West Duval Street, Jacksonville, FL 32202.	City Hall, 117 West Duval Street, Jacksonville, FL 32202.	*http://www.msc.fema.gov/lomc.*	December 22, 2014	120077
Duval	City of Jacksonville (14–04–1465P).	The Honorable Alvin Brown, Mayor, City of Jacksonville, 117 West Duval Street, Jacksonville, FL 32202.	City Hall, 117 West Duval Street, Jacksonville, FL 32202.	*http://www.msc.fema.gov/lomc.*	December 11, 2014	120077
Duval	City of Jacksonville (14–04–5239P).	The Honorable Alvin Brown, Mayor, City of Jacksonville, 117 West Duval Street, Jacksonville, FL 32202.	City Hall, 117 West Duval Street, Jacksonville, FL 32202.	*http://www.msc.fema.gov/lomc.*	December 26, 2014	120077
Manatee	Unincorporated areas of Manatee County (14–04–8302P).	The Honorable Larry Bustle, Chairman, Manatee County Board of Commissioners, 1112 Manatee Avenue West, Bradenton, FL 34205.	Manatee County Building and Development Services Department, 1112 Manatee Avenue West, Bradenton, FL 34205.	*http://www.msc.fema.gov/lomc.*	December 26, 2014	120153
Miami-Dade	City of Sunny Isles Beach (14–04–4655P).	The Honorable Norman S. Edelcup, Mayor, City of Sunny Isles Beach, 18070 Collins Avenue, Sunny Isles Beach, FL 33160.	Government Center, 18070 Collins Avenue, Sunny Isles Beach, FL 33160.	*http://www.msc.fema.gov/lomc.*	December 22, 2014	120688
Miami-Dade	City of Sunny Isles Beach (14–04–4656P).	The Honorable Norman S. Edelcup, Mayor, City of Sunny Isles Beach, 18070 Collins Avenue, Sunny Isles Beach, FL 33160.	Government Center, 18070 Collins Avenue, Sunny Isles Beach, FL 33160.	*http://www.msc.fema.gov/lomc.*	January 5, 2015	120688

State and county	Location and case no.	Chief executive officer of community	Community map repository	Online location of letter of map revision	Effective date of modification	Community No.
Orange	City of Orlando (14–04–4627P).	The Honorable Buddy Dyer, Mayor, City of Orlando, P.O. Box 4990, Orlando, FL 32802.	Permitting Services Department, 400 South Orange Avenue, Orlando, FL 32801.	*http://www.msc.fema.gov/lomc.*	January 9, 2015	120186
Orange	Unincorporated areas of Orange County (14–04–4627P).	The Honorable Teresa Jacobs, Mayor, Orange County, 201 South Rosalind Avenue, 5th Floor, Orlando, FL 32801.	Orange County Stormwater Management Department, 4200 South John Young Parkway, Orlando, FL 32839.	*http://www.msc.fema.gov/lomc.*	January 9, 2015	120179
Polk	City of Winter Haven (14–04–4079P).	The Honorable Nathaniel Birdsong, Mayor, City of Winter Haven, 451 3rd Street Northwest, Winter Haven, FL 33881.	Engineering Services Division, 451 3rd Street Northwest, Winter Haven, FL 33881.	*http://www.msc.fema.gov/lomc.*	January 5, 2015	120271
Sarasota	City of Sarasota (14–04–5350P).	The Honorable Willie Charles Shaw, Mayor, City of Sarasota, 1565 1st Street, Sarasota, FL 34236.	City Hall, 1565 1st Street, Sarasota, FL 34236.	*http://www.msc.fema.gov/lomc.*	December 22, 2014	125150
Seminole	City of Altamonte Springs (14–04–7250P).	The Honorable Patricia Bates, Mayor, City of Altamonte Springs, 225 Newburyport Avenue, Altamonte Springs, FL 32701.	Public Library, 281 North Maitland, Altamonte Springs, FL 32701.	*http://www.msc.fema.gov/lomc.*	December 26, 2014	120290
Seminole	City of Casselberry (14–04–5862P).	The Honorable Charlene Glancy, Mayor, City of Casselberry, 95 Triplet Lake Drive, Casselberry, FL 32707.	City Hall, 95 Triplet Lake Drive, Casselberry, FL 32707.	*http://www.msc.fema.gov/lomc.*	January 9, 2015	120291
Georgia:						
Columbia	Unincorporated areas of Columbia County (14–04–7278P).	The Honorable Ron C. Cross, Chairman, Columbia County Board of Commissioners, P.O. Box 498, Evans, GA 30809.	Stormwater Utility Department, 603 Ronald Reagan Drive, Building B, 2nd Floor, Evans, GA 30809.	*http://www.msc.fema.gov/lomc.*	January 2, 2015	130059
Decatur	City of Bainbridge (14–04–1920P).	The Honorable Edward Reynolds, Mayor, City of Bainbridge, P.O. Box 158, Bainbridge, GA 39818.	City Hall, 107 Broad Street, Bainbridge, GA 39817.	*http://www.msc.fema.gov/lomc.*	November 17, 2014	130204
Decatur	Unincorporated areas of Decatur County (14–04–1920P).	The Honorable Frank Loeffler, Chairman, Decatur County Board of Commissioners, P.O. Box 726, Bainbridge, GA 39818.	Decatur County Planning Department, 309 Airport Road, Bainbridge, GA 39817.	*http://www.msc.fema.gov/lomc.*	November 17, 2014	130451
Fulton	Unincorporated areas of Fulton County (14–04–0878P).	The Honorable John Eaves, Chairman, Fulton County Board of Commissioners, 141 Pryor Street, Suite 10061, Atlanta, GA 30303.	Fulton County Office of Environment and Community Development, 141 Pryor Street, Suite 2085, Atlanta, GA 30303.	*http://www.msc.fema.gov/lomc.*	January 12, 2015	135160
Gwinnett	City of Duluth (14–04–1324P).	The Honorable Nancy Harris, Mayor, City of Duluth, 3167 Main Street, Duluth, GA 30096.	Department of Planning and Development, 3578 West Lawrenceville Street, Duluth, GA 30096.	*http://www.msc.fema.gov/lomc.*	November 24, 2014	130098
Montana: Ravalli	Unincorporated areas of Ravalli County (14–08–0632P).	The Honorable Greg Chilcott, Chairman, Ravalli County Board of Commissioners, 215 South 4th Street, Suite A, Hamilton, MT 59840.	Ravalli County Floodplain Map Repository, 215 South 4th Street, Suite A, Hamilton, MT 59840.	*http://www.msc.fema.gov/lomc.*	January 19, 2015	300061
Nevada: Clark	City of Henderson (14–09–1585P).	The Honorable Andy A. Hafen, Mayor, City of Henderson, P.O. Box 95050, Henderson, NV 89009.	Public Works Department, 240 Water Street, Henderson, NV 89015.	*http://www.msc.fema.gov/lomc.*	December 29, 2014	320005
North Carolina: Guilford.	City of Greensboro (14–04–2255P).	The Honorable Nancy Vaughan, Mayor, City of Greensboro, P.O. Box 3136, Greensboro, NC 27402.	Central Library, 219 North Church Street, Greensboro, NC 27401.	*http://www.msc.fema.gov/lomc.*	January 9, 2015	375351

State and county	Location and case no.	Chief executive officer of community	Community map repository	Online location of letter of map revision	Effective date of modification	Community No.
Wyoming: Teton	Town of Jackson (14–08–0328P)..	The Honorable Mark Barron, Mayor, Town of Jackson, P.O. Box 1687, Jackson, WY 83001.	Planner's Office, 150 East Pearl Street, Jackson, WY 83001.	*http://www.msc.fema.gov/lomc.*	December 26, 2014	560052

[FR Doc. 2014–29014 Filed 12–10–14; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2014–0002]

Changes in Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Final notice.

SUMMARY: New or modified Base (1-percent annual chance) Flood Elevations (BFEs), base flood depths, Special Flood Hazard Area (SFHA) boundaries or zone designations, and/or regulatory floodways (hereinafter referred to as flood hazard determinations) as shown on the indicated Letter of Map Revision (LOMR) for each of the communities listed in the table below are finalized. Each LOMR revises the Flood Insurance Rate Maps (FIRMs), and in some cases the Flood Insurance Study (FIS) reports, currently in effect for the listed communities. The flood hazard determinations modified by each LOMR will be used to calculate flood insurance premium rates for new buildings and their contents.

DATES: The effective date for each LOMR is indicated in the table below.

ADDRESSES: Each LOMR is available for inspection at both the respective Community Map Repository address listed in the table below and online through the FEMA Map Service Center at *www.msc.fema.gov.*

FOR FURTHER INFORMATION CONTACT: Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, FEMA, 500 C Street SW., Washington, DC 20472, (202) 646–4064, or (email) *Luis.Rodriguez3@fema.dhs.gov;* or visit the FEMA Map Information eXchange (FMIX) online at *www.floodmaps.fema.gov/fhm/fmx_main.html.*

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) makes the final flood hazard determinations as shown in the LOMRs for each community listed in the table below. Notice of these modified flood hazard determinations has been published in newspapers of local circulation and 90 days have elapsed since that publication. The Deputy Associate Administrator for Mitigation has resolved any appeals resulting from this notification.

The modified flood hazard determinations are made pursuant to section 206 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.,* and with 44 CFR part 65.

For rating purposes, the currently effective community number is shown and must be used for all new policies and renewals.

The new or modified flood hazard information is the basis for the floodplain management measures that the community is required either to adopt or to show evidence of being already in effect in order to remain qualified for participation in the National Flood Insurance Program (NFIP).

This new or modified flood hazard information, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities.

This new or modified flood hazard determinations are used to meet the floodplain management requirements of the NFIP and also are used to calculate the appropriate flood insurance premium rates for new buildings, and for the contents in those buildings. The changes in flood hazard determinations are in accordance with 44 CFR 65.4.

Interested lessees and owners of real property are encouraged to review the final flood hazard information available at the address cited below for each community or online through the FEMA Map Service Center at *www.msc.fema.gov.*

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Dated: November 24, 2014.

Roy E. Wright,

Deputy Associate Administrator for Mitigation, Department of Homeland Security, Federal Emergency Management Agency.

State and county	Location and case No.	Chief executive officer of community	Community map repository	Effective date of modification	Community No.
New Jersey: Sussex (FEMA Docket No.: B–1424).	Township of Byram (14–02–1064P).	The Honorable James Oscovitch, Mayor, Township of Byram, 10 Mansfield Drive, Stanhope, NJ 07874.	Byram Township, Municipal Building, 10 Mansfield Drive, Stanhope, NJ 07874.	October 2, 2014	340557
New York:					
Rockland, (FEMA Docket No.: B–1422).	Town of Ramapo (13–02–1859P).	The Honorable Christopher P. St. Lawrence, Supervisor, Town of Ramapo, 237 Route 59, Suffern, NY 10901.	Town of Ramapo, Department of Public Works, 16 Pioneer Avenue, Tallman, NY 10982.	October 16, 2014	365340
Rockland (FEMA Docket No.: B–1422).	Village of Hillburn (13–02–1859P).	The Honorable Craig M. Flanagan, Jr., Mayor, Village of Hillburn, 31 Mountain Avenue, Hillburn, NY 10931.	Village Hall, 31 Mountain Avenue, Hillburn, NY 10931.	October 16, 2014	360683
Oklahoma:					

State and county	Location and case No.	Chief executive officer of community	Community map repository	Effective date of modification	Community No.
Carter (FEMA Docket No.: B–1432).	City of Ardmore (13–06–4203P).	The Honorable Martin Dyer, Mayor, City of Ardmore, P.O. Box 249, Ardmore, OK 73402.	Developmental Services Department, 23 South Washington Street, Ardmore, OK 73401.	October 17, 2014	400031
Oklahoma (FEMA Docket No.: B–1424).	City of Oklahoma City (14–06–0267P).	The Honorable Mick Cornett, Mayor, City of Oklahoma City, 200 North Walker Avenue, 3rd Floor, Oklahoma City, OK 73102.	420 West Main Street, Suite 700, Oklahoma City, OK 73102.	October 9, 2014	405378
Pennsylvania:					
Mercer (FEMA Docket No.: B–1432).	Borough of Sharpsville (14–03–2041P).	Mr. Kenneth P. Robertson, Manager, Borough of Sharpsville, 1 South Walnut Street, Sharpsville, PA 16150.	1 South Walnut Street, Sharpsville, PA 16150.	October 22, 2014	420682
Mercer (FEMA Docket No.: B–1432).	City of Hermitage (14–03–2041P).	Mr. Gary P. Hinkson, Manager, City of Hermitage, 800 North Hermitage Road, Hermitage, PA 16148.	800 North Hermitage Road, Hermitage, PA 16148.	October 22, 2014	421862
Mercer (FEMA Docket No.: B–1432).	Township of South Pymatuning (14–03–2041P).	The Honorable Brian Geisel, Chairman, Township of South Pymatuning Board of Supervisors, 3483 Tamarack Drive, Sharpsville, PA 16150.	Township of South Pymatuning, 3483 Tamarack Drive, Sharpsville, PA 16150.	October 22, 2014	421876
Texas:					
Denton (FEMA Docket No.: B–1432).	Town of Flower Mound (14–06–0182P).	The Honorable Thomas Hayden, Mayor, Town of Flower Mound, 2121 Cross Timbers Road, Flower Mound, TX 75028.	Engineering Department, 1001 Cross Timbers Road, Suite 3220, Flower Mound, TX 75028.	October 14, 2014	480777
Harris (FEMA Docket No.: B–1424).	City of Houston (14–06–1647P).	The Honorable Annise D. Parker, Mayor, City of Houston, P.O. Box 1562, Houston, TX 77251.	Public Works and Engineering Department, 611 Walker Street, Houston, TX 77002.	October 6, 2014	480296
Harris (FEMA Docket No.: B–1424).	Unincorporated areas of Harris County (14–06–1080P).	The Honorable Ed M. Emmett, Harris County Judge, 1001 Preston Street, Suite 911, Houston, TX 77002.	Harris County, 10555 Northwest Freeway, Houston, TX 77092.	October 10, 2014	480287
Harris (FEMA Docket No.: B–1424).	Unincorporated areas of Harris County (14–06–1647P).	The Honorable Ed M. Emmett, Harris County Judge, 1001 Preston Street, Suite 911, Houston, TX 77002.	Harris County, 10555 Northwest Freeway, Houston, TX 77092.	October 6, 2014	480287
Harris (FEMA Docket No.: B–1424).	Unincorporated areas of Harris County (14–06–1656P).	The Honorable Ed M. Emmett, Harris County Judge, 1001 Preston Street, Suite 911, Houston, TX 77002.	Harris County, 10555 Northwest Freeway, Houston, TX 77092.	October 3, 2014	480287
Kendall (FEMA Docket No.: B–1432).	Unincorporated areas of Kendall County (13–06–4074P).	The Honorable Darrel L. Lux, Kendall County Judge, 201 East San Antonio Avenue, Suite 122, Boerne, TX 78006.	Kendall County Development and Floodplain Management Office, 201 East San Antonio Avenue, Suite 101, Boerne, TX 78006.	October 6, 2014	480417
McLennan (FEMA Docket No.: B–1424).	City of Robinson (13–06–4191P).	The Honorable Bryan Ferguson, Mayor, City of Robinson, 111 West Lyndale Drive, Robinson, TX 76706.	City Hall, 111 West Lyndale Drive, Robinson, TX 76706.	October 8, 2014	480460
Tarrant (FEMA Docket No.: B–1432).	City of Colleyville (13–06–4370P).	The Honorable David Kelly, Mayor, City of Colleyville, 100 Main Street, Colleyville, TX 76034.	Engineering Division, 100 Main Street, 2nd Floor, Colleyville, TX 76034.	September 17, 2014	480590
Tarrant (FEMA Docket No.: B–1432).	City of Keller (13–06–4370P).	The Honorable Mark Mathews, Mayor, City of Keller, P.O. Box 770, Keller, TX 76244.	City Hall, 1100 Bear Creek Parkway, Keller, TX 76248.	September 17, 2014	480602
Tarrant (FEMA Docket No.: B–1432).	City of Mansfield (14–06–0939P).	The Honorable David L. Cook, Mayor, City of Mansfield, 1200 East Broad Street, Mansfield, TX 76063.	City Hall, 1200 East Broad Street, Mansfield, TX 76063.	October 6, 2014	480606
Tarrant (FEMA Docket No.: B–1432).	City of Southlake (13–06–4370P).	The Honorable John Terrell, Mayor, City of Southlake, 1400 Main Street, Suite 270, Southlake, TX 76092.	Public Works Administration and Engineering, 1400 Main Street, Suite 320, Southlake, TX 76092.	September 17, 2014	480612
Travis (FEMA Docket No.: B–1432).	City of Lakeway (13–06–4373P).	The Honorable Dave DeOme, Mayor, City of Lakeway, 1102 Lohmans Crossing Road, Lakeway, TX 78734.	Floodplain Administrator's Office, 1102 Lohmans Crossing Road, Lakeway, TX 78734.	October 17, 2014	481303

[FR Doc. 2014–29016 Filed 12–10–14; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket No. FEMA–2014–0002; Internal Agency Docket No. FEMA–B–1359]

Proposed Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency; DHS.

ACTION: Notice; correction.

SUMMARY: On January 30, 2014, FEMA published in the **Federal Register** a proposed flood hazard determination notice at 79 FR 4950 that contained a table which included a Web page address through which the Preliminary Flood Insurance Rate Map (FIRM), and where applicable, the Flood Insurance Study (FIS) report for the communities listed in the table could be accessed. The information available through the Web page address has subsequently been updated. The table provided here represents the proposed flood hazard determinations and communities affected for King and Queen County, Virginia, and Incorporated Areas.

DATES: Comments are to be submitted on or before March 11, 2015.

ADDRESSES: The Preliminary FIRM, and where applicable, the FIS report for each community are available for inspection at both the online location and the respective Community Map Repository address listed in the table below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *www.msc.fema.gov* for comparison.

You may submit comments, identified by Docket No. FEMA–B–1359, to Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, FEMA, 500 C Street SW., Washington, DC 20472, (202) 646–4064, or (email) *Luis.Rodriguez3@fema.dhs.gov.*

FOR FURTHER INFORMATION CONTACT: Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, FEMA, 500 C Street SW., Washington, DC 20472, (202) 646–4064 or (email) *Luis.Rodriguez3@fema.dhs.gov.*

SUPPLEMENTARY INFORMATION: FEMA proposes to make flood hazard determinations for each community listed in the table below, in accordance with Section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed flood hazard determinations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, State, or regional entities. These flood hazard determinations are used to meet the floodplain management requirements of the NFIP and are also used to calculate the appropriate flood insurance premium rates for new buildings built after the FIRM and FIS report become effective.

Use of a Scientific Resolution Panel (SRP) is available to communities in support of the appeal resolution process. SRPs are independent panels of experts in hydrology, hydraulics, and other pertinent sciences established to review conflicting scientific and technical data and provide recommendations for resolution. Use of the SRP may only be exercised after FEMA and local communities have been engaged in a collaborative consultation process for at least 60 days without a mutually acceptable resolution of an appeal. Additional information regarding the SRP process can be found online at *http://www.floodsrp.org/pdfs/srp_fact_sheet.pdf.*

The communities affected by the flood hazard determinations are provided in the table below. Any request for reconsideration of the revised flood hazard determinations shown on the Preliminary FIRM and FIS report that satisfies the data requirements outlined in 44 CFR 67.6(b) is considered an appeal. Comments unrelated to the flood hazard determinations will also be considered before the FIRM and FIS report are made final.

Correction

In the proposed flood hazard determination notice published at 79 FR 4950 in the January 30, 2014, issue of the **Federal Register**, FEMA published a table titled ''King and Queen County, Virginia, and Incorporated Areas.'' This table contained a Web page address through which the Preliminary FIRM, and where applicable, FIS report for the communities listed in the table could be accessed online. A Revised Preliminary FIRM and/or FIS report have subsequently been issued for some or all of the communities listed in the table. The information available through the Web page address listed in the table has been updated to reflect the Revised Preliminary information and is to be used in lieu of the information previously available.

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Dated: November 24, 2014.

Roy E. Wright,

Deputy Associate Administrator for Mitigation, Department of Homeland Security, Federal Emergency Management Agency.

Community	Community map repository address
King and Queen County, Virginia, and Incorporated Areas	
Maps Available for Inspection Online at: *http://www.fema.gov/preliminaryfloodhazarddata*	
Unincorporated Areas of King and Queen County	King and Queen County Complex Building, County Administrator's Office, 242 Allens Circle, Suite L, King and Queen Court House, VA 23085.

[FR Doc. 2014–29024 Filed 12–10–14; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4202–DR; [Docket ID FEMA–2014–0003]

Nevada; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Nevada (FEMA–4202–DR), dated November 5, 2014, and related determinations.

DATES: *Effective Date:* November 5, 2014.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated November 5, 2014, the President issued a major disaster declaration under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the ''Stafford Act''), as follows:

I have determined that the damage in certain areas of the State of Nevada resulting from severe storms and flooding during the period of September 7–9, 2014, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the ''Stafford Act''). Therefore, I declare that such a major disaster exists in the State of Nevada.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Public Assistance in the designated areas and Hazard Mitigation throughout the State. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Hazard Mitigation will be limited to 75 percent of the total eligible costs. Federal funds provided under the Stafford Act for Public Assistance also will be limited to 75 percent of the total eligible costs, with the exception of projects that meet the eligibility criteria for a higher Federal cost-sharing percentage under the Public Assistance Alternative Procedures Pilot Program for Debris Removal implemented pursuant to section 428 of the Stafford Act.

Further, you are authorized to make changes to this declaration for the approved assistance to the extent allowable under the Stafford Act.

The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, under Executive Order 12148, as amended, Mark H. Landry, of FEMA is appointed to act as the Federal Coordinating Officer for this major disaster.

The following area of the State of Nevada has been designated as adversely affected by this major disaster:

Moapa Band of Paiutes Reservation for Public Assistance.

All areas within the State of Nevada are eligible for assistance under the Hazard Mitigation Grant Program.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

W. Craig Fugate,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2014–29115 Filed 12–10–14; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4200–DR; Docket ID FEMA–2014–0003]

Missouri; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Missouri (FEMA–4200–DR), dated October 31, 2014, and related determinations.

DATES: *Effective Date:* October 31, 2014.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated October 31, 2014, the President issued a major disaster declaration under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the ''Stafford Act''), as follows:

I have determined that the damage in certain areas of the State of Missouri resulting from severe storms, tornadoes, straight-line winds, and flooding during the period of September 9–10, 2014, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the ''Stafford Act''). Therefore, I declare that such a major disaster exists in the State of Missouri.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Public Assistance in the designated areas and Hazard Mitigation throughout the State. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Hazard Mitigation will be limited to 75 percent of the total eligible costs. Federal funds provided under the Stafford Act for Public Assistance also will be limited to 75 percent of the total eligible costs, with the exception of projects that meet the eligibility criteria for a higher Federal cost-sharing percentage under the Public Assistance Alternative Procedures Pilot Program for Debris Removal implemented pursuant to section 428 of the Stafford Act.

Further, you are authorized to make changes to this declaration for the approved assistance to the extent allowable under the Stafford Act.

The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, under Executive Order 12148, as amended, Laura S. Hevesi, of FEMA is appointed to act as the Federal Coordinating Officer for this major disaster.

The following areas of the State of Missouri have been designated as adversely affected by this major disaster:

Adair, Andrew, Atchison, Daviess, Gentry, Grundy, Harrison, Holt, Knox, Lewis, Linn, Livingston, Macon, Mercer, Nodaway, Putnam, Ralls, Shelby, Sullivan, and Worth Counties for Public Assistance.

All areas within the State of Missouri are eligible for assistance under the Hazard Mitigation Grant Program.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049,

Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

W. Craig Fugate,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2014–29010 Filed 12–10–14; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2014–0002; Internal Agency Docket No. FEMA–B–1453]

Proposed Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: Comments are requested on proposed flood hazard determinations, which may include additions or modifications of any Base Flood Elevation (BFE), base flood depth, Special Flood Hazard Area (SFHA) boundary or zone designation, or regulatory floodway on the Flood Insurance Rate Maps (FIRMs), and where applicable, in the supporting Flood Insurance Study (FIS) reports for the communities listed in the table below. The purpose of this notice is to seek general information and comment regarding the preliminary FIRM, and where applicable, the FIS report that the Federal Emergency Management Agency (FEMA) has provided to the affected communities. The FIRM and FIS report are the basis of the floodplain management measures that the community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP). In addition, the FIRM and FIS report, once effective, will be used by insurance agents and others to calculate appropriate flood insurance premium rates for new buildings and the contents of those buildings.

DATES: Comments are to be submitted on or before March 11, 2015.

ADDRESSES: The Preliminary FIRM, and where applicable, the FIS report for each community are available for inspection at both the online location and the respective Community Map Repository address listed in the tables below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *www.msc.fema.gov* for comparison.

You may submit comments, identified by Docket No. FEMA–B–1453, to Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, FEMA, 500 C Street SW., Washington, DC 20472, (202) 646–4064, or (email) *Luis.Rodriguez3@fema.dhs.gov*.

FOR FURTHER INFORMATION CONTACT: Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, FEMA, 500 C Street SW., Washington, DC 20472, (202) 646–4064, or (email) *Luis.Rodriguez3@fema.dhs.gov*; or visit the FEMA Map Information eXchange (FMIX) online at *www.floodmaps.fema.gov/fhm/fmx_main.html*.

SUPPLEMENTARY INFORMATION: FEMA proposes to make flood hazard determinations for each community listed below, in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed flood hazard determinations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities. These flood hazard determinations are used to meet the floodplain management requirements of the NFIP and also are used to calculate the appropriate flood insurance premium rates for new buildings built after the FIRM and FIS report become effective.

The communities affected by the flood hazard determinations are provided in the tables below. Any request for reconsideration of the revised flood hazard information shown on the Preliminary FIRM and FIS report that satisfies the data requirements outlined in 44 CFR 67.6(b) is considered an appeal. Comments unrelated to the flood hazard determinations also will be considered before the FIRM and FIS report become effective.

Use of a Scientific Resolution Panel (SRP) is available to communities in support of the appeal resolution process. SRPs are independent panels of experts in hydrology, hydraulics, and other pertinent sciences established to review conflicting scientific and technical data and provide recommendations for resolution. Use of the SRP only may be exercised after FEMA and local communities have been engaged in a collaborative consultation process for at least 60 days without a mutually acceptable resolution of an appeal. Additional information regarding the SRP process can be found online at *http://floodsrp.org/pdfs/srp_fact_sheet.pdf.*

The watersheds and/or communities affected are listed in the tables below. The Preliminary FIRM, and where applicable, FIS report for each community are available for inspection at both the online location and the respective Community Map Repository address listed in the tables. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *www.msc.fema.gov* for comparison.

Dated: November 24, 2014.

Roy E. Wright,

Deputy Associate Administrator for Mitigation, Department of Homeland Security, Federal Emergency Management Agency.

I. Watershed-based studies:

Community	Community map repository address
Middle Coosa Watershed	
Maps Available for Inspection Online at: *http://www.fema.gov/preliminaryfloodhazarddata*	
Calhoun County, Alabama, and Incorporated Areas	
City of Anniston	City Hall, 1128 Gurnee Avenue, Anniston, AL 36201.
City of Jacksonville	City Hall, 320 Church Avenue Southeast, Jacksonville, AL 36265.
City of Oxford	City Hall, 145 Hamric Drive East, Oxford, AL 36203.

Community	Community map repository address
City of Piedmont	City Hall, 109 North Center Avenue, Piedmont, AL 36272.
City of Weaver	City Hall, 500 Anniston Street, Weaver, AL 36277.
Town of Hobson City	Town Hall, 715 Martin Luther King Drive, Hobson City, AL 36201.
Town of Ohatchee	Town Hall, 7801 Highway 77, Ohatchee, AL 36271.
Unincorporated Areas of Calhoun County	Calhoun County EMA, 507 Francis Street West, Jacksonville, AL 36265.
Cherokee County, Alabama, and Incorporated Areas	
City of Centre	City Hall, 401 East Main Street, Centre, AL 35960.
Unincorporated Areas of Cherokee County	County Engineering Department, 1875 East Main Street, Centre, AL 35960.
Etowah County, Alabama, and Incorporated Areas	
City of Attalla	City Hall, 612 North 4th Street, Attalla, AL 35954.
City of Gadsden	City Hall, 90 Broad Street, Gadsden, AL 35901.
City of Glencoe	City Hall, 201A West Chastain Boulevard, Glencoe, AL 35905.
City of Rainbow City	City Hall, 3700 Rainbow Drive, Rainbow City, AL 35906.
City of Southside	City Hall, 2255 Highway 77, Southside, AL 35907.
Town of Hokes Bluff	Town Hall, 3301 Alford Bend Road, Hokes Bluff, AL 35903.
Town of Reece City	Reece City Town Hall, 1023 Valley Drive, Attalla, AL 35954.
Town of Sardis City	City Hall, 1335 Sardis Drive, Sardis City, AL 35956.
Unincorporated Areas of Etowah County	Etowah County Courthouse, 800 Forrest Avenue, Gadsden, AL 35901.
St. Clair County, Alabama, and Incorporated Areas	
City of Argo	City Hall, 100 Blackjack Road, Argo, AL 35173.
City of Ashville	City Hall, 211 8th Street, Ashville, AL 35953.
City of Margaret	City Hall, 125 School Street, Margaret, AL 35112.
City of Moody	City Hall, 670 Park Avenue, Moody, AL 35004.
City of Odenville	City Hall, 183 Alabama Street, Odenville, AL 35120.
City of Pell City	City Hall, 1905 1st Avenue North, Pell City, AL 35125.
City of Riverside	City Hall, 379 Depot Street, Riverside, AL 35135.
City of Springville	City Hall, 6327 U.S. Highway 11, Springville, AL 35146.
City of Trussville	City Hall, 131 Main Street, Trussville, AL 35173.
Town of Ragland	Town Hall, 220 Fredia Street, Suite 102, Ragland, AL 35131.
Town of Steele	Town Hall, 4025 Pope Avenue, Steele, AL 35987.
Unincorporated Areas of St. Clair County	St. Clair County Engineering Department, 31588 U.S. Highway 231, Ashville, AL 35953.
Talladega County, Alabama, and Incorporated Areas	
City of Childersburg	City Hall, 201 8th Avenue Southwest, Childersburg, AL 35044.
City of Lincoln	City Hall, 150 Magnolia Street, Lincoln, AL 35096.
City of Sylacauga	City Hall, 301 North Broadway Avenue, Sylacauga, AL 35150.
City of Talladega	City Hall, 203 South Street West, Talladega, AL 35161.
Unincorporated Areas of Talladega County	Talladega County Highway Department Engineering Office, 500 Institute Lane, Talladega, AL 35161.

II. Non-watershed-based studies:

Community	Community map repository address
Prowers County, Colorado, and Incorporated Areas	
Maps Available for Inspection Online at: *http://www.fema.gov/preliminaryfloodhazarddata*	
City of Lamar	Mayor, City of Lamar, 102 East Parmenter Street, Lamar, CO 81052.
Town of Granada	Town Clerk, Town of Granada, 103 South Main Street, Granada, CO 81041.
Town of Holly	Administrator, Town of Holly, 100 Tony Garcia Drive, Holly, CO 81047.
Town of Wiley	Mayor, Town of Wiley, 304 Main Street, Wiley, CO 81092.
Unincorporated Areas of Prowers County	Prowers County Emergency Operations Management, 301 South Main Street, Lamar, CO 81052.

[FR Doc. 2014–29022 Filed 12–10–14; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R8–ES–2014–N225; 80221–1113–0000–C2]

Endangered and Threatened Wildlife and Plants; Draft Recovery Plan for Four Species of the Santa Rosa Plain

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability.

SUMMARY: We, the U.S. Fish and Wildlife Service, announce the availability of the Draft Recovery Plan for the Santa Rosa Plain: *Blennosperma bakeri* (Sonoma sunshine); *Lasthenia burkei* (Burke's goldfields); *Limnanthes vinculans* (Sebastopol meadowfoam); Sonoma County Distinct Population Segment of the California Tiger Salamander (*Ambystoma californiense*) for public review and comment. The draft recovery plan includes recovery objectives and criteria, and specific actions necessary to achieve removal of the species from the Federal Lists of Endangered and Threatened Wildlife and Plants.

DATES: We must receive any comments on the draft recovery plan on or before February 9, 2015.

ADDRESSES: You may obtain a copy of the recovery plan from our Web site at *http://www.fws.gov/endangered/species/recovery-plans.html.* Alternatively, you may contact the Sacramento Fish and Wildlife Office, U.S. Fish and Wildlife Service, 2800 Cottage Way, Suite W–2605, Sacramento, CA 95825 (telephone 916–414–6700).

FOR FURTHER INFORMATION CONTACT: Jennifer Norris, Field Supervisor, at the above street address by telephone (see **ADDRESSES**).

SUPPLEMENTARY INFORMATION: We announce the availability of the Draft Recovery Plan for the following four species of the Santa Rosa Plain for public review and comment:

- *Blennosperma bakeri* (Sonoma sunshine)
- *Lasthenia burkei* (Burke's goldfields)
- *Limnanthes vinculans* (Sebastopol meadowfoam)
- Sonoma County Distinct Population Segment of the California Tiger Salamander (*Ambystoma californiense*)

The draft recovery plan includes recovery objectives and criteria, and specific actions necessary to achieve removal of the species from the Federal Lists of Endangered and Threatened Wildlife and Plants.

Background

Recovery of endangered or threatened animals and plants to the point where they are again secure, self-sustaining members of their ecosystems is a primary goal of our endangered species program and the Endangered Species Act of 1973, as amended (Act; 16 U.S.C. 1531 *et seq.*). Recovery means improvement of the status of listed species to the point at which listing is no longer appropriate under the criteria specified in section 4(a)(1) of the Act. The Act requires the development of recovery plans for listed species, unless such a plan would not promote the conservation of a particular species.

We listed *Blennosperma bakeri* (Sonoma sunshine), *Lasthenia burkei* (Burke's goldfields), and *Limnanthes vinculans* (Sebastopol meadowfoam) as endangered on December 2, 1991 (56 FR 61173). The present ranges of these species are predominantly located on the Santa Rosa Plain, which is located in central Sonoma County, bordered on the south and west by the Laguna de Santa Rosa, on the east by the Coast Range foothills, and on the north by the Russian River. However, the geographic area covered by this recovery plan includes all known locations of the species, some of which are outside of the Plain. They are annual plants that exist only in seasonal wetlands.

We listed the Sonoma County California tiger salamander, which we identified as a distinct population segment (DPS), as endangered on March 19, 2003 (68 FR 13498). The species is endemic to the Santa Rosa Plain. The Sonoma County California tiger salamander requires seasonal wetlands for breeding, and the surrounding uplands (upland habitat) for dispersal, feeding, growth, maturation, and maintenance of the juvenile and adult population.

The loss, degradation, and fragmentation of seasonal wetlands due to development have led to population declines for all four species. While ongoing agricultural practices have disturbed seasonal wetlands, certain agricultural practices, such as irrigated or grazed pasture, have protected habitat from intensive development and are compatible with persistence of these listed species. However, conversion of pastures to vineyards is a current threat of high magnitude.

Recovery Plan Goals

The purpose of a recovery plan is to provide a framework for the recovery of species so that protection under the Act is no longer necessary. A recovery plan includes scientific information about the species and provides criteria that enable us to gauge whether downlisting or delisting the species is warranted. Furthermore, recovery plans help guide our recovery efforts by describing actions we consider necessary for each species' conservation and by estimating time and costs for implementing needed recovery measures.

The ultimate goal of this recovery plan is to recover *Blennosperma bakeri* (Sonoma sunshine), *Lasthenia burkei* (Burke's goldfields), *Limnanthes vinculans* (Sebastopol meadowfoam), and California Tiger Salamander Sonoma County Distinct Population Segment (*Ambystoma californiense*) so that they can be delisted. To meet the recovery goals, the following objectives have been identified:

1. Restore habitat conditions to sustain viable (meta) populations of species to support self-sufficiency in perpetuity.
2. Maintain the current geographic, elevational, and ecological distribution of each listed species.
3. Maintain the genetic structure and diversity of existing populations.
4. Protect and manage sufficient habitat to ensure that the listed entity is able to adapt to unforeseen or unknown threats, such as climate change.
5. Reintroduce individuals to successfully establish new populations in historically occupied areas.
6. Minimize the contribution of extant or potential threats.
7. Monitor species population trends across multiple years (and varied climatic conditions) to determine whether abundances are sustainable.
8. Manage occurrences on a case-by-case basis during consultation, with an emphasis on protections to identified core areas.

As *Blennosperma bakeri* (Sonoma sunshine), *Lasthenia burkei* (Burke's goldfields), *Limnanthes vinculans* (Sebastopol meadowfoam), and California Tiger Salamander Sonoma County Distinct Population Segment (*Ambystoma californiense*) meet reclassification and recovery criteria, we will review their status and consider them for removal from the Federal Lists of Endangered and Threatened Wildlife and Plants.

Request for Public Comments

We request written comments on the draft revised recovery plan described in this notice. All comments received by the date specified above will be considered in development of a final recovery plan for *Blennosperma bakeri* (Sonoma sunshine), *Lasthenia burkei* (Burke's goldfields), *Limnanthes vinculans* (Sebastopol meadowfoam),

and California Tiger Salamander Sonoma County Distinct Population Segment (*Ambystoma californiense*). You may submit written comments and information by mail or in person to the Sacramento Fish and Wildlife Office (see **ADDRESSES**).

Public Availability of Comments

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Authority

We developed our recovery plan under the authority of section 4(f) of the Act, 16 U.S.C. 1533(f). We publish this notice under section 4(f) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: December 5, 2014.

Paul B. McKim

Regional Director, Pacific Southwest Region.

[FR Doc. 2014–29123 Filed 12–10–14; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[14XL1109AF.LLWYD04000.L1220 0000.MD0000]

Notice of Proposed Supplementary Rules for the Killpecker Sand Dunes Recreational Site, Wyoming

AGENCY: Bureau of Land Management, Interior.

ACTION: Proposed Supplementary Rules.

SUMMARY: The Bureau of Land Management (BLM) is proposing supplementary rules for the Killpecker Sand Dunes Recreational Site located within the Greater Sand Dunes Area of Critical Environmental Concern (ACEC) Eastern Portion managed by the Rock Springs Field Office (RSFO) in Rock Springs, Wyoming. This action is necessary for the public health and safety of visitors in order to provide high quality and unique off-highway vehicle (OHV) activities in the open play sand dunes area. The proposed supplementary rules are intended to allow the BLM to more effectively manage a safe environment for OHV recreation by providing better visual identification of OHVs, implementing a speed limit, and prohibiting the possession and use of glass containers in the OHV recreation area.

DATES: Interested parties may submit written comments regarding the proposed supplementary rules until February 9, 2015.

ADDRESSES: You may submit comments by any of the following methods:

Email: *blm_wy_rsfo_sand_dunes@blm.gov* with ''Supplemental Rules'' in the subject line; Fax: (307) 352–0329; or Mail or Hand Delivery: BLM Rock Springs Field Office, Attn: Supplemental Rules, 280 Highway 191 North, Rock Springs, WY 82901.

FOR FURTHER INFORMATION CONTACT: Georgia Foster, RSFO Outdoor Recreation Planner, (307) 352–0327. Persons who use a telecommunications device for the deaf may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to speak with Georgia Foster 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:

I. Public Comment Procedures

Comments may be mailed, emailed, or hand-delivered to Georgia Foster at the addresses listed above (See **ADDRESSES**). Written comments on the proposed supplementary rules should be specific, confined to issues pertinent to the proposed rules, and should explain the reason for any recommended change. Where possible, comments should reference the specific section or paragraph of the proposal that the commenter is addressing. The BLM is not obligated to consider, or include in the administrative record for the final supplementary rules, comments delivered to an address other than those listed above (See **ADDRESSES**) or comments that the BLM receives after the close of the comment period (See **DATES**), unless they are postmarked or electronically dated before the deadline.

Comments, including names, street addresses, and other contact information for respondents, will be available for public review at the RSFO listed in **ADDRESSES** during regular business hours (8 a.m. to 4:30 p.m., Monday through Friday, except Federal holidays). 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 may ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

II. Background

Conditions of use for OHVs are defined under 43 CFR subpart 8341. Rules of conduct on public land are defined under 43 CFR subpart 8365. The BLM is proposing these supplementary rules in accordance with 43 CFR 8365.1–6, which authorizes state directors to establish supplementary rules for the protection of persons, property, and public lands and resources.

The Killpecker Sand Dunes Recreational Site is managed in accordance with the 2006 Record of Decision and Jack Morrow Hills Coordinated Activity Plan/Green River Resource Management Plan Amendment, which designates 10,020 acres as open to OHV travel on the active sand dunes. These proposed supplementary rules would implement key decisions in the March 12, 2013 Killpecker Sand Dunes Recreation Site Facility Improvement Environmental Assessment (WY040–EA13–098) Decision Record, which is in compliance with the 2006 Record of Decision.

III. Discussion of Proposed Supplementary Rules

The proposed supplementary rules would apply to public lands administered by the BLM RSFO. The active sand dunes within the Killpecker Sand Dunes Recreational Site consist of approximately 10,500 acres of public lands within Sweetwater County, Wyoming in the following described area:

Sixth Principal Meridian, Wyoming

T.23 N., R.103 W., sec.16, SE¼SW¼ and SW¼.

The proposed supplementary rules would provide for increased public safety while recreating at the Killpecker Sand Dunes Recreational Site. The rules would require safety flags on all vehicles in the OHV open area, prohibit speeds in excess of 15 miles per hour within 500 feet of access roads, and prohibit the use of glass containers within the OHV recreation area. These rules would allow for better visibility of OHVs, reduce traffic accidents along the access roads leading into the OHV area, and would help prevent injuries throughout the sand dunes.

IV. Procedural Matters

Executive Order 12866, Regulatory Planning and Review

These proposed supplementary rules are not a significant regulatory action and are not subject to review by the Office of Management and Budget under Executive Order 12866. They would not have an effect of $100 million or more on the economy and will not adversely affect, in a material way, productivity, competition, jobs, the environment, public health or safety, or state, local, or tribal governments or communities. They would not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency. They would not alter the budgetary effects of entitlements, grants, user fees, or loan programs or the right or obligations of their recipients; nor do they raise novel legal or policy issues. They would not affect legal commercial activity, but merely impose limitations on certain recreational activities on certain public lands to protect natural resources and human health and safety.

Clarity of the Supplementary Rules

Executive Order 12866 requires each agency to write regulations that are simple and easy to understand. The BLM invites your comments on how to make these proposed supplementary rules easier to understand, including answers to questions such as the following: (1) Are the requirements in the proposed supplementary rules clearly stated? (2) Do the proposed supplementary rules contain technical language or jargon that interferes with their clarity? (3) Does the format of the proposed supplementary rules (grouping and order of sections, use of headings, paragraphing, etc.) aid or reduce their clarity? (4) Would the proposed supplementary rules be easier to understand if they were divided into more (but shorter) sections? (5) Is the description of the proposed supplementary rules in the **SUPPLEMENTARY INFORMATION** section of this preamble helpful to your understanding of the proposed supplementary rules? How could this description be more helpful in making the proposed supplementary rules easier to understand?

Please send any comments you have on the clarity of the supplementary rules to the address specified in the **ADDRESSES** section.

National Environmental Policy Act

The proposed supplementary rules would implement key decisions in the March 12, 2013 Killpecker Sand Dunes Recreation Site Facility Improvement Environmental Assessment (WY040–EA13–098) Decision Record. This decision record is in compliance with the actions identified for this area in the 2006 Record of Decision and Jack Morrow Hills Coordinated Activity Plan/Green River Resource Management Plan Amendment.

Regulatory Flexibility Act

Congress enacted the Regulatory Flexibility Act of 1980, as amended, 5 U.S.C. 601–612, (RFA) to ensure that government regulations do not unnecessarily or disproportionately burden small entities. The RFA requires a regulatory flexibility analysis if rules would have a significant economic impact, either detrimental or beneficial, on a substantial number of small entities. The proposed supplementary rules do not pertain specifically to commercial or governmental entities of any size, but contain rules to protect the health and safety of individuals, property, and resources on the public lands. Therefore, the BLM has determined under the RFA that these proposed supplementary rules would not have a significant economic impact on a substantial number of small entities.

Small Business Regulatory Enforcement Fairness Act

These proposed supplementary rules do not constitute a ''major rule'' as defined at 5 U.S.C. 804(2). These proposed supplementary rules would merely impose reasonable restrictions on certain recreational activities on certain public lands to protect natural resources and human health and safety. The proposed supplementary rules have no effect on business, commercial, or industrial use of the public lands.

Unfunded Mandates Reform Act

These proposed supplementary rules would not impose an unfunded mandate on state, local, or tribal governments or the private sector of more than $100 million per year; nor do these proposed supplementary rules have a significant or unique effect on state, local, or tribal governments or the private sector. The proposed supplementary rules would not require anything of state, local, or tribal governments. The proposed supplementary rules would merely impose reasonable restrictions on certain recreational activities on certain public lands to protect natural resources and the environment and human health and safety. Therefore, the BLM is not required to prepare a statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1501–1571).

Executive Order 12630, Governmental Actions and Interference With Constitutionally Protected Property Rights (Takings)

The proposed supplementary rules do not constitute a government action capable of interfering with constitutionally protected property rights. The proposed supplementary rules do not address property rights in any form and do not cause the impairment of constitutionally protected property rights. Therefore, the BLM has determined that the proposed supplementary rules would not cause a taking of private property or require further discussion of takings implications under this Executive Order.

Executive Order 13132, Federalism

The proposed supplementary rules 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. The proposed supplementary rules would apply only in Wyoming and would not address jurisdictional issues involving the Wyoming State government. Therefore, in accordance with Executive Order 13132, the BLM has determined that these proposed supplementary rules would not have sufficient Federalism implications to warrant preparation of a Federalism Assessment.

Executive Order 12988, Civil Justice Reform

Under Executive Order 12988, the BLM Wyoming State Director has determined that these proposed supplementary rules would not unduly burden the judicial system and that they meet the requirements of sections 3(a) and 3(b)(2) of the Order.

Executive Order 13175, Consultation and Coordination With Indian Tribal Governments

In accordance with Executive Order 13175, the BLM has found that these proposed supplementary rules do not include policies that have tribal implications and would have no bearing on trust lands or on lands for which title is held in fee status by Indian tribes or U.S. Government owned lands managed by the Bureau of Indian Affairs.

Executive Order 13352, Facilitation of Cooperative Conservation

In accordance with Executive Order 13352, the BLM has determined that the

proposed supplementary rules would not impede facilitating cooperative conservation; would take appropriate account of and consider the interests of persons with ownership or other legally recognized interests in land or other natural resources; would properly accommodate local participation in the Federal decision-making process; and would provide that the programs, projects, and activities are consistent with protecting public health and safety.

Information Quality Act

In developing these proposed supplementary rules, the BLM did not conduct or use a study, experiment, or survey requiring peer review under the Information Quality Act (Section 515 of Pub. L. 106–554).

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

These proposed supplementary rules do not comprise a significant energy action. The rules would not have an adverse effect on energy supply, production, or consumption and have no connection with energy policy.

Paperwork Reduction Act

These proposed supplementary rules do not contain information collection requirements that the Office of Management and Budget must approve under the Paperwork Reduction Act of 1995, 44 U.S.C. 3501–3521.

Proposed Supplementary Rules

Author

The principal author of these supplementary rules is Georgia Foster, Outdoor Recreation Planner, BLM Wyoming, High Desert District, RSFO, Rock Springs, Wyoming.

Definitions

Off Highway Vehicle (OHV) means any motorized vehicle capable of, or designed for, travel on or immediately over land, water, or other natural terrain.

Vehicle means any motorized transportation conveyance designed and licensed for use on roadways, such as an automobile, bus, or truck, and any motorized conveyance originally equipped with safety belts. This includes two-wheeled motorcycles.

Prohibited Acts

1. You must not operate any vehicle within the Killpecker Sand Dunes Recreation Site without an appropriate safety flag. All vehicles must be equipped with a whip mast and a 6 inch x 12 inch red or orange flag. A whip mast is any pole, rod or antenna mounted on the vehicle that extends at least eight feet from the surface of the ground to the mast tip. It must stand upright when the vehicle is stationary. Masts must be securely mounted on the vehicle. Safety flags must be attached within 10 inches of the tip of the whip mast with other flags mounted below the safety flag or on another whip. Flags may be of pennant, triangle, square or rectangular shape

2. You must not operate a vehicle in excess of 15 miles per hour on public lands within 500 feet of access roads within the Killpecker Sand Dunes Recreation Site.

3. You must not possess or use any glass container within the Killpecker Sand Dunes Recreation Site.

Exceptions

The following persons are exempt from these supplementary rules: any Federal, state, local, and/or military employees acting within the scope of their official duties; members of any organized rescue or fire fighting forces acting within the scope of their official duties; and persons who are expressly authorized or otherwise officially approved by the BLM.

Penalties

Under section 303(a) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1733(a)) and 43 CFR 8360.0–7, any person who violates any of these supplementary rules may be tried before a United States Magistrate and fined no more than $1,000 or imprisoned for no more than 12 months, or both. Such violations may also be subject to enhanced fines provided for by 18 U.S.C. 3571.

Donald A. Simpson,

Bureau of Land Management, State Director, Wyoming.

[FR Doc. 2014–29149 Filed 12–10–14; 8:45 am]

BILLING CODE 4310–22–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NRNHL–17206; PPWOCRADI0, PCU00RP14.R50000]

National Register of Historic Places; Notification of Pending Nominations and Related Actions

Nominations for the following properties being considered for listing or related actions in the National Register were received by the National Park Service before November 14, 2014. Pursuant to section 60.13 of 36 CFR part 60, written comments are being accepted concerning the significance of the nominated properties under the National Register criteria for evaluation. Comments may be forwarded by United States Postal Service, to the National Register of Historic Places, National Park Service, 1849 C St. NW., MS 2280, Washington, DC 20240; by all other carriers, National Register of Historic Places, National Park Service, 1201 Eye St. NW., 8th Floor, Washington, DC 20005; or by fax, 202–371–6447. Written or faxed comments should be submitted by December 26, 2014. 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: November 21, 2014.

Alexandra Lord,

Acting Chief, National Register of Historic Places/National Historic Landmarks Program.

ARIZONA

Maricopa County

Coffelt—Lamoreaux Homes Historic District, 509 S. 19th St., Phoenix, 14001081

DISTRICT OF COLUMBIA

District of Columbia

Park View Christian Church, 625 Park Rd. NW., Washington, 14001082

Van View, 7714 13th St. NW., Washington, 14001083

FLORIDA

Duval County

Norman Film Studios, 6337 Arlington Rd., Jacksonville, 14001084

Escambia County

Palafox Historic District, Palafox St. between Main & Chase extending to Spring, Pensacola, 14001085

Miami-Dade County

Vagabond Motel, 7301 Biscayne Blvd., Miami, 14001086

MAINE

Androscoggin County

Auburn Commercial Historic District, Main & Court Sts., Auburn, 14001087

Jordan, F.M., House, 18 Laurel Ave., Auburn, 14001088

Lincoln County

Fisherman's Island, Address Restricted, Boothbay, 14001091

MARYLAND

Baltimore Independent City

Berea—Biddle Street Historic District, N. Rose & Federal Sts., Edison Hwy., PCRR., Baltimore (Independent City), 14001092

Prince George's County

Ridgeley School, (Rosenwald Schools of Maryland MPS) 8507 Central Ave., Capitol Heights, 14001093

MASSACHUSETTS

Barnstable County

Chase Library, 7 Main St., Harwich, 14001094

Suffolk County

South End District (Boundary Increase), 200–224 Northampton St., Boston, 14001095

MICHIGAN

Alpena County

PEWABIC (propeller) Shipwreck Site, Address Restricted, Alpena Township, 14001096

Ingham County

French, Walter H., Junior High School, 1900 S. Cedar St., Lansing, 14001097

Presque Isle County

KATE SPANGLER (schooner) Shipwreck Site, L. Huron, 4 mi. NE. of Presque Isle, Presque Isle Township, 14001098

PENNSYLVANIA

Allegheny County

Pittsburgh Mercantile Company Building, 2600 E. Carson St., Pittsburgh, 14001099

Erie County

Manchester School No. 3, (Educational Resources of Pennsylvania MPS) 6610 W. Lake Rd., Fairview Township, 14001100

Luzerne County

Hotel Altamont, 145 W. Broad St., Hazelton, 14001101

Montgomery County

Franklinville School, 1701 Morris Rd., Blue Bell, 14001102

Jenkintown Wyncote Train Station, 3 West Ave., Jenkintown and Cheltenham Township, 14001103

Northampton County

Simon, R. and H., Silk Mill, 659 N. 13th St., Easton, 14001104

Philadelphia County

Schoettle, Edwin J., Company Building, 533 N. 11th St., Philadelphia, 14001105

TENNESSEE

Hamilton County

Standard—Coosa—Thatcher Mills, 1800 Watkins St., Chattanooga, 14001106

Washington County

Brown Farm, 359 Taylor Bridge Rd., Jonesborough, 14001107

WASHINGTON

Pierce County

Cushman Substation, 3713 N. 19th St., Tacoma, 14001108

Spokane County

Canfield, George and Nellie. House, 1301 N. Sherwood St., Spokane, 14001109

Whatcom County

Downtown Bellingham Historic District, Roughly bounded by E. Maple, N. Forest, York, Prospect, Bay & W. Chestnut Sts., Central & Cornwall Aves., Bellingham, 14001110

WEST VIRGINIA

Monroe County

Gap Valley Historic District, Sweet Springs Valley, Zenith & Rowan Rds., Gap Mills, 14001111

WISCONSIN

Milwaukee County

East Oregon and South Barclay Industrial Historic District, 300 S. Barclay, 139, 221 E. Oregon & 214 E. Florida Sts., Milwaukee, 14001112

[FR Doc. 2014–29027 Filed 12–10–14; 8:45 am]

BILLING CODE 4312–51–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–514 and 731–TA–1250 (Final)]

53-Foot Domestic Dry Containers From China; Scheduling of the Final Phase of Countervailing Duty and Antidumping Duty Investigations

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: The Commission hereby gives notice of the scheduling of the final phase of countervailing and antidumping duty investigation Nos. 701–TA–514 and 731–TA–1250 (Final) under sections 705(b) and 731(b) of the Tariff Act of 1930 (19 U.S.C. 1671d(b) and 1673d(b)) (the Act) to determine whether an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of subsidized and less-than-fair-value imports from China of 53-foot domestic dry containers, provided for in subheading 8609.00.0000 of the Harmonized Tariff Schedule of the United States.[1]

For further information concerning the conduct of this phase of the investigations, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and C (19 CFR part 207).

DATES: *Effective Date:* Wednesday, November 26, 2014.

FOR FURTHER INFORMATION CONTACT: Carolyn Esko (202–205–3002), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. 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. General information concerning the Commission may also be obtained by accessing its internet server (*http://www.usitc.gov*). The public record for these investigations may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION:

Background.—The final phase of these investigations is being scheduled as a result of affirmative preliminary determinations by the Department of Commerce that certain benefits which constitute subsidies within the meaning of section 703 of the Act (19 U.S.C. 1671b) are being provided to manufacturers, producers, or exporters in China of 53-foot domestic dry containers, and that such products are being sold in the United States at less than fair value within the meaning of section 733 of the Act (19 U.S.C. 1673b). The investigations were requested in petitions filed on April 23, 2014, by Stoughton Trailers, LLC, Stoughton, Wisconsin.

Participation in the investigations and public service list.—Persons, including industrial users of the subject merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the final phase of these investigations as parties must file an entry of appearance with the Secretary

[1] For purposes of these investigations, the Department of Commerce has defined the subject merchandise as ''closed (*i.e.,* not open top) van containers exceeding 14.63 meters (48 feet) but generally measuring 16.154 meters (53 feet) in exterior length, which are designed for the intermodal transport of goods other than bulk liquids within North America primarily by rail or by road vehicle, or by a combination of rail and road vehicle (domestic containers). The merchandise is known in the industry by varying terms including '53-foot containers,' '53-foot dry containers,' '53-foot domestic dry containers,' 'domestic dry containers' and 'domestic containers.' ''

to the Commission, as provided in section 201.11 of the Commission's rules, no later than 21 days prior to the hearing date specified in this notice. A party that filed a notice of appearance during the preliminary phase of the investigations need not file an additional notice of appearance during this final phase. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the investigations.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list.—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in the final phase of these investigations available to authorized applicants under the APO issued in the investigations, provided that the application is made no later than 21 days prior to the hearing date specified in this notice. Authorized applicants must represent interested parties, as defined by 19 U.S.C. 1677(9), who are parties to the investigations. A party granted access to BPI in the preliminary phase of the investigations need not reapply for such access. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Staff report.—The prehearing staff report in the final phase of these investigations will be placed in the nonpublic record on Thursday, March 26, 2015, and a public version will be issued thereafter, pursuant to section 207.22 of the Commission's rules.

Hearing.—The Commission will hold a hearing in connection with the final phase of these investigations beginning at 9:30 a.m. on Thursday, April 16, 2015, at the U.S. International Trade Commission Building. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before Friday, April 10, 2015. A nonparty who has testimony that may aid the Commissions deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should participate in a prehearing conference to be held (if necessary) on Monday, April 13, 2015, at the U.S. International Trade Commission Building. Oral testimony and written materials to be submitted at the public hearing are governed by sections 201.6(b)(2), 201.13(f), and 207.24 of the Commission's rules. Parties must submit any request to present a portion of their hearing testimony *in camera* no later than 7 business days prior to the date of the hearing.

Written submissions.—Each party who is an interested party shall submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of section 207.23 of the Commission's rules; the deadline for filing is Thursday, April 9, 2015. Parties may also file written testimony in connection with their presentation at the hearing, as provided in section 207.24 of the Commission's rules, and posthearing briefs, which must conform with the provisions of section 207.25 of the Commission's rules. The deadline for filing posthearing briefs is Thursday, April 23, 2015. In addition, any person who has not entered an appearance as a party to the investigations may submit a written statement of information pertinent to the subject of the investigations, including statements of support or opposition to the petition, on or before Thursday, April 23, 2015. On Monday, May 11, 2015, the Commission will make available to parties all information on which they have not had an opportunity to comment. Parties may submit final comments on this information on or before Wednesday, May 13, 2015, but such final comments must not contain new factual information and must otherwise comply with section 207.30 of the Commission's rules. All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's *Handbook on E-Filing,* available on the Commission's Web site at *http://edis.usitc.gov,* elaborates upon the Commission's rules with respect to electronic filing.

Additional written submissions to the Commission, including requests pursuant to section 201.12 of the Commission's rules, shall not be accepted unless good cause is shown for accepting such submissions, or unless the submission is pursuant to a specific request by a Commissioner or Commission staff.

In accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the investigations must be served on all other parties to the investigations (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: These investigations are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.21 of the Commission's rules.

By order of the Commission.

Issued: December 8, 2014.

Lisa R. Barton,

Secretary to the Commission.

[FR Doc. 2014–29057 Filed 12–10–14; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

[OMB Number 1121–NEW]

Agency Information Collection Activities; Proposed eCollection eComments Requested; New Collection: Methodological Research To Support the National Crime Victimization Survey: Subnational Companion Study—American Crime Survey Field Test

AGENCY: Bureau of Justice Statistics, Department of Justice.

ACTION: 60-day notice.

SUMMARY: The Department of Justice (DOJ), Office of Justice Programs, Bureau of Justice Statistics, will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995.

DATES: Comments are encouraged and will be accepted for 60 days until February 9, 2015.

FOR FURTHER INFORMATION CONTACT: If you have additional comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Michael Planty, Unit Chief, Victimization Statistics, Bureau of Justice Statistics, 810 Seventh Street NW., Washington, DC 20531 (email: *Michael.Planty@usdoj.gov;* telephone: 202–514–9746).

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

— Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Bureau of Justice Statistics, including whether the information will have practical utility;

— Evaluate the accuracy of the agency's estimate of the burden of the

proposed collection of information, including the validity of the methodology and assumptions used;
— Evaluate whether and if so how the quality, utility, and clarity of the information to be collected can be enhanced; and
— Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of this information collection:

(1) *Type of Information Collection:* New collection under activities related to the National Crime Victimization Survey Redesign Research (NCVS–RR) program: NCVS Subnational Companion Study—American Crime Survey Field Test.

(2) *The Title of the Form/Collection:* American Crime Survey (ACS).

(3) *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* The form number for the questionnaire is ASC1 and ASC2. The applicable component within the Department of Justice is the Bureau of Justice Statistics, in the Office of Justice Programs.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Adults ages 18 or older in 40 largest Core Based Statistical Areas (CBSAs) in the United States, as measured by the number of households. Since 2008, BJS has initiated numerous research projects to assess and improve upon the core NCVS methodology. The purpose the Companion Survey Field Test will be to test a low-cost alternative self-administered survey for collecting information about violence and property crime to generate subnational, local level estimates of victimization. The goal of this test is to generate a survey that could parallel National Crime Victimization Survey (NCVS) and Uniform Crime Report (UCR) estimates over time, rather than replicate either of them, and could be used to assess whether local initiatives are correlated with changes in crime rates. A secondary goal is to assess change over time, as the Field Test will be administered over two years, with a cross-sectional address-based sample survey in 2015 and a second address-based sample survey 2016. The rationale for collecting data in two years is that we are able to assess the ability of the instruments to detect change over time. An additional feature of the surveys being tested is the inclusion of a set of questions on perceptions of neighborhood safety, fear of crime, and police effectiveness, which would allow the survey to be used to assess changes in these perceptions as well. This information is not currently available from the NCVS.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* Over the two year period approximately 200,400 households are expected to complete the survey. The sample is divided into two groups by instrument version: ASC1 person-level survey and ASC2 incident-level survey. Over the two waves, for both versions, approximately 25% of households interviewed in year 1 will be re-interviewed in year 2.

- The first group of 100,200 households will receive the ASC1, a person-level survey to measure prevalence or the number of adult household members victimized by one or more types of violent crime and the number of households victimized by types of property crime. The expected burden placed on these respondents is 12 minutes per respondent for a total of 20,040 burden hours for both years.
- The second group of 100,200 households will receive the ASC2, an incident-level survey to measure the number of victimization incidents experienced by all adult household members. The expected burden placed on these respondents is 12.5 minutes for a total of 17,535 burden hours.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total respondent burden is approximately 37,575 hours.

If additional information is required contact: Jerri Murray, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE., 3E.405B, Washington, DC 20530.

Dated: December 8, 2014.

Jerri Murray,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2014–29066 Filed 12–10–14; 8:45 am]

BILLING CODE 4410–18–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–392]

Manufacturer of Controlled Substances Registration: Johnson Matthey Pharmaceutical Materials, Inc.

AGENCY: Drug Enforcement Administration, Department of Justice.

ACTION: Notice of registration.

SUMMARY: Johnson Matthey Pharmaceutical Materials, Inc. applied to be registered as a manufacturer of certain basic classes of controlled substances. The DEA grants Johnson Matthey Pharmaceutical Materials, Inc. registration as a manufacturer of the controlled substances.

SUPPLEMENTARY INFORMATION: By notice dated January 15, 2014, and published in the **Federal Register** on February 4, 2014, 79 FR 6633, Johnson Matthey Pharmaceutical Materials, Inc., Pharmaceutical Service, 25 Patton Road, Devens, Massachusetts 01434, applied to be registered as a manufacturer of certain basic classes of controlled substances. No comments or objections were submitted to this notice.

The Drug Enforcement Administration (DEA) has considered the factors in 21 U.S.C. 823(a) and determined that the registration of Johnson Matthey Pharmaceutical Materials, Inc. to manufacture the basic classes of controlled substances is consistent with the public interest and with United States obligations under international treaties, conventions, or protocols in effect on May 1, 1971. The DEA investigated the company's maintenance of effective controls against diversion by inspecting and testing the company's physical security systems, verifying the company's compliance with state and local laws, and reviewing the company's background and history.

Therefore, pursuant to 21 U.S.C. 823(a), and in accordance with 21 CFR 1301.33, the above-named company is granted registration as a bulk manufacturer of the basic classes of controlled substances:

Controlled substance	Schedule
Amphetamine (1100)	II
Methylphenidate (1724)	II
Nabilone (7379)	II
Hydrocodone (9193)	II
Alfentanil (9737)	II
Remifentanil (9739)	II
Sufentanil (9740)	II

The company plans to utilize this facility to manufacture small quantities

of the listed controlled substances in bulk and to conduct analytical testing in support of the company's primary manufacturing facility in West Deptford, New Jersey. The controlled substances manufactured in bulk at this facility will be distributed to the company's customers.

Dated: November 25, 2014.

Joseph T. Rannazzisi,

Deputy Assistant Administrator.

[FR Doc. 2014–29117 Filed 12–10–14; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–392]

Manufacturer of Controlled Substances Registration: Sigma Aldrich Research Biochemicals, Inc.

AGENCY: Drug Enforcement Administration, Department of Justice.

ACTION: Notice of registration.

SUMMARY: Sigma Aldrich Research Biochemicals, Inc., applied to be registered as a manufacturer of certain basic classes of controlled substances. The DEA grants Sigma Aldrich Research Biochemicals, Inc. registration as a manufacturer of those controlled substances.

SUPPLEMENTARY INFORMATION: By notice dated January 15, 2014, and published in the **Federal Register** on February 4, 2014, 79 FR 6633, Sigma Aldrich Research Biochemicals, Inc. 1–3 Strathmore Road, Natick, Massachusetts 01760–2447, applied to be registered as a manufacturer of certain basic classes of controlled substances. No comments or objections were submitted to this notice.

The Drug Enforcement Administration (DEA) has considered the factors in 21 U.S.C. 823(a) and determined that the registration of Sigma Aldrich Research Biochemicals, Inc. to manufacture the basic classes of controlled substances is consistent with the public interest and with United States obligations under international treaties, conventions, or protocols in effect on May 1, 1971. The DEA investigated the company's maintenance of effective controls against diversion by inspecting and testing the company's physical security systems, verifying the company's compliance with state and local laws, and reviewing the company's background and history.

Therefore, pursuant to 21 U.S.C. 823(a), and in accordance with 21 CFR 1301.33, the above named company is granted registration as a bulk manufacturer of the basic classes of controlled substances listed:

Controlled substance	Schedule
Cathinone (1235)	I
Methcathinone (1237)	I
Mephedrone (4-Methyl-N-methylcathinone) (1248).	I
Aminorex (1585)	I
Alpha-ethyltryptamine (7249)	I
Lysergic acid diethylamide (7315)	I
Tetrahydrocannabinols (7370)	I
4-Bromo-2,5-dimethoxyamphetamine (7391).	I
4-Bromo-2,5-dimethoxyphenethylamine (7392).	I
4-Methyl-2,5-dimethoxyamphetamine (7395).	I
2,5-Dimethoxyamphetamine (7396).	I
3,4-Methylenedioxyamphetamine (7400).	I
N-Hydroxy-3,4-methylenedioxyamphetamine (7402).	I
3,4-Methylenedioxy-N-ethylamphetamine (7404).	I
3,4-Methylenedioxymethamphetamine (MDMA) (7405).	I
Dimethyltryptamine (7435)	I
Psilocybin (7437)	I
5-Methoxy-N, N-diisopropyltryptamine (7439).	I
1-[1-(2-Thienyl)cyclohexyl]piperidine (TCP) (7470).	I
N-Benzylpiperazine (BZP) (7493)	I
MDPV (3,4-Methylenedioxypyrovalerone) (7535).	I
Methylone (3,4-Methylenedioxy-N-methylcathinone) (7540).	I
Heroin (9200)	I
Normorphine (9313)	I
Amphetamine (1100)	II
Methamphetamine (1105)	II
Nabilone (7379)	II
1-Phenylcyclohexylamine (7460)	II
Phencyclidine (7471)	II
Cocaine (9041)	II
Codeine (9050)	II
Ecgonine (9180)	II
Levomethorphan (9210)	II
Levorphanol (9220)	II
Meperidine (9230)	II
Metazocine (9240)	II
Methadone (9250)	II
Morphine (9300)	II
Thebaine (9333)	II
Levo-alphacetylmethadol (9648)	II
Remifentanil (9739)	II
Sufentanil (9740)	II
Carfentanil (9743)	II
Fentanyl (9801)	II

The company plans to manufacture reference standards.

Dated: November 25, 2014.

Joseph T. Rannazzisi,

Deputy Assistant Administrator.

[FR Doc. 2014–29119 Filed 12–10–14; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF LABOR

Employee Benefits Security Administration

Proposed Extension of Information Collection Request Submitted for Public Comment; Revisions to Coverage of Certain Preventive Services Under the Affordable Care Act

AGENCY: Employee Benefits Security Administration, Department of Labor.

ACTION: Notice.

SUMMARY: The Department of Labor (the Department), in accordance with the Paperwork Reduction Act of 1995 (PRA 95) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the reporting burden on the public and helps the public understand the Department's information collection requirements and provide the requested data in the desired format. Currently, the Employee Benefits Security Administration is soliciting comments on the revision of the Coverage of Certain Preventive Services Under the Affordable Care Act information collection to reflect the new option of notifying the Department of Health and Human Services of the respondents' objections to providing coverage in response to the Supreme Court of the United States' interim order in connection with an application for an injunction in the pending case of *Wheaton College* v. *Burwell*. A copy of the information collection request (ICR) may be obtained by contacting the office listed in the **ADDRESSES** section of this notice.

DATES: Written comments must be submitted to the office shown in the Addresses section on or before February 9, 2015.

ADDRESSES: Direct all written comments regarding the information collection request and burden estimates to G. Christopher Cosby, Office of Policy and Research, Employee Benefits Security Administration, U.S. Department of Labor, 200 Constitution Avenue NW., Room N–5718, Washington, DC 20210. Telephone: (202) 693–8410; Fax: (202)

219–4745. These are not toll-free numbers. Comments may also be submitted electronically to the following Internet email address: *ebsa.opr@dol.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

The Patient Protection and Affordable Care Act, Public Law 111–148, (the Affordable Care Act) was enacted by President Obama on March 23, 2010 and amended by the Health Care and Education Reconciliation Act of 2010, Public Law 111–152 on March 30, 2010. The Affordable Care Act added section 2713 to the Public Health Service (PHS) Act and incorporated this provision into the Employee Retirement Income Security Act (ERISA) and the Internal Revenue Code (Code). The Departments of Health and Human Services, Labor, and Treasury (the Departments) published interim final rules (2010 interim final rules) on July 19, 2010 to require non-grandfathered group health insurance coverage to provide benefits for certain preventive services without cost sharing, including benefits for certain women's preventive health services as provided for in comprehensive guidelines supported by the Health Resources and Services Administration (HRSA).

On August 1, 2011, HRSA adopted and released guidelines for women's preventive health services, including contraceptive services. On August 3, 2011, the Departments amended the 2010 interim final rules (2011 amended interim final rules) to provide HRSA with the authority to exempt group health plans established or maintained by religious employers (and group health insurance coverage provided in connection with such plans) from the requirement to cover contraceptive services consistent with the HRSA guidelines. The 2011 amended interim final rules specified a definition of religious employer. HRSA exercised its authority in its guidelines to exempt plans established or maintained by religious employers (and group health insurance coverage provided in connection with such plans) from the requirement to cover contraceptive services.

On February 6, 2013, the Departments published proposed rules that proposed to simplify and clarify the definition of religious employer and also proposed accommodations for health coverage established or maintained or arranged by certain nonprofit religious organizations with religious objections to contraceptive services (eligible organizations). The rules proposed that, for insured plans, the health insurance issuer providing group health insurance coverage in connection with the plan would be required to assume sole responsibility, independent of the eligible organization and its plan, for providing contraceptive coverage to plan participants and beneficiaries without cost sharing, premium, fee, or other charge to plan participants or beneficiaries or to the eligible organization or its plan. In the case of self-insured plans, the proposed regulations presented potential approaches under which the third party administrator of the plan would provide or arrange for a third party to provide separate contraceptive coverage to plan participants and beneficiaries without cost sharing, premium, fee, or other charge to plan participants or beneficiaries or to the eligible organization or its plan. The Departments received over 400,000 comments (many of them standardized form letters) in response to the proposed regulations.

After consideration of the comments, the Departments published final regulations on July 2, 2013. A contemporaneously-issued HHS guidance document extended the temporary safe harbor from enforcement of the contraceptive coverage requirement by the Departments to encompass plan years beginning on or after August 1, 2013, and before January 1, 2014. This guidance included a form to be used by an organization during this temporary period to self-certify that its plan qualifies for the temporary enforcement safe harbor. In addition, HHS and the Department of Labor also issued a self-certification form, EBSA Form 700, to be executed by an organization seeking to be treated as an eligible organization for purposes of an accommodation under these final regulations. This self-certification form was provided for use with the accommodations under the July 2013 final regulations, after the expiration of the temporary enforcement safe harbor (that is, for plan years beginning on or after January 1, 2014). The rules also provide that the third party administrator and issuer that is required to provide or arrange payments for contraceptive services must provide plan participants and beneficiaries with written notice of the availability of separate payments for contraceptive services contemporaneous with, but separate from, any application materials distributed in connection with enrollment for group health coverage for each plan year to which the accommodation is to apply.

On July 3, 2014, the Supreme Court of the United States issued an interim order in connection with an application for an injunction in the pending case of Wheaton College v. Burwell, ruling that, ''[i]f [Wheaton College] informs the Secretary of Health and Human Services in writing that it is a non-profit organization that holds itself out as religious and has religious objections to providing coverage for contraceptive services, the [Departments of Labor, Health and Human Services, and the Treasury] are enjoined from enforcing against [Wheaton College]'' certain provisions of the Affordable Care Act and related regulations requiring coverage without cost-sharing of certain contraceptive services ''pending final disposition of appellate review'' (Wheaton order). The order stated that Wheaton College need not use EBSA Form 700 or send a copy of the executed form to its health insurance issuers or third party administrators to meet the condition for this injunctive relief. The order also stated that it neither affected ''the ability of [Wheaton College's] employees and students to obtain, without cost, the full range of FDA approved contraceptives,'' nor precluded the Government from relying on the notice it receives from Wheaton College ''to facilitate the provision of full contraceptive coverage under the Act.''

On August 27, 2014, the Departments issued interim final regulations (79 FR 66617) in light of the Supreme Court's interim order concerning notification to the Federal government that an eligible organization has a religious objection to providing contraceptive coverage, as an alternative to the EBSA Form 700, and to preserve participants' and beneficiaries' access to coverage for the full range of FDA-approved contraceptives, as prescribed by a health care provider, without cost sharing, which is also consistent with the Supreme Court's order.

On August 27, 2014, the Office of Management and Budget (OMB) approved the changes as a revision to OMB Control Number 1210–0150 under the emergency procedures for review and clearance in accordance with the Paperwork Reduction Act of 1995 (P.L. 104–13, 44 U.S.C. Chapter 35) and 5 CFR 1320.13. OMB's approval of the revision currently is schedule to expire on February 28, 2015.

II. Current Actions

This notice requests public comment pertaining to the Department's request for extension of OMB's approval of its revision to OMB Control Number 1210–0150 relating to the Coverage of Certain Preventive Services Under the Affordable Care Act. After considering

comments received in response to this notice, the Department intends to submit an ICR to OMB for continuing approval. No change to the existing ICR is proposed or made at this time. The Department notes that an agency may not conduct or sponsor, and a person is not required to respond to, an information collection unless it displays a valid OMB control number. A summary of the ICR and the current burden estimates follows:

Agency: Employee Benefits Security Administration, Department of Labor.

Title: Coverage of Certain Preventive Services Under the Affordable Care Act.

Type of Review: Revision of a currently approved collection of information.

OMB Number: 1210–0150.

Affected Public: Business or other for-profit; Not-for-profit institutions.

Respondents: 61.

Frequency of Responses: Once.

Responses: 61.

Estimated Total Burden Hours: 51.

III. Desired Focus of Comments

The Department of Labor (Department) 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.,* by permitting electronic submissions of responses.

Comments submitted in response to this notice will be summarized and/or included in the ICR for OMB approval of the extension of the information collection; they will also become a matter of public record.

Dated: December 5, 2014.

Phyllis C. Borzi,

Assistant Secretary, Employee Benefits Security Administration.

[FR Doc. 2014–29060 Filed 12–10–14; 8:45 am]

BILLING CODE 4510–29–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2012–0035]

Traylor/Skanska/Jay Dee Joint Venture; Application for Permanent Variance and Interim Order; Grant of Interim Order; Request for Comments

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Notice.

SUMMARY: In this notice, OSHA announces the application of Traylor/Skanska/Jay Dee Joint Venture (collectively ''Traylor JV'' or ''the applicant'') for a permanent variance and interim order from the provisions of OSHA standards that regulate work in compressed air environments and presents the Agency's preliminary finding to grant the permanent variance. OSHA invites the public to submit comments on the variance application to assist the Agency in determining whether to grant the applicant a permanent variance based on the conditions specified in this application.

DATES: Submit comments, information, documents in response to this notice, and request for a hearing on or before January 12, 2015. The interim order described in this notice became effective on July 11, 2013, and shall remain in effect until the completion of the Blue Plains tunnel project or the interim order is modified or revoked.

ADDRESSES: Submit comments by any of the following methods:

1. *Electronically:* Submit comments and attachments electronically at *http://www.regulations.gov,* which is the Federal eRulemaking Portal. Follow the instructions online for making electronic submissions.

2. *Facsimile:* If submissions, including attachments, are not longer than 10 pages, commenters may fax them to the OSHA Docket Office at (202) 693–1648.

3. *Regular or express mail, hand delivery, or messenger (courier) service:* Submit comments, requests, and any attachments to the OSHA Docket Office, Docket No. OSHA–2012–0035, Technical Data Center, U.S. Department of Labor, 200 Constitution Avenue NW., Room N–2625, Washington, DC 20210; telephone: (202) 693–2350 (TTY number: (877) 889–5627). Note that security procedures may result in significant delays in receiving comments and other written materials by regular mail. Contact the OSHA Docket Office for information about security procedures concerning delivery of materials by express delivery, hand delivery, or messenger service. The hours of operation for the OSHA Docket Office are 8:15 a.m.–4:45 p.m., e.t.

4. *Instructions:* All submissions must include the Agency name and the OSHA docket number (OSHA–2012–0035). OSHA places comments and other materials, including any personal information, in the public docket without revision, and these materials will be available online at *http://www.regulations.gov.* Therefore, the Agency cautions commenters about submitting statements they do not want made available to the public, or submitting comments that contain personal information (either about themselves or others) such as Social Security numbers, birth dates, and medical data.

5. *Docket:* To read or download submissions or other material in the docket, go to *http://www.regulations.gov* or the OSHA Docket Office at the address above. All documents in the docket are listed in the *http://www.regulations.gov* index; however, some information (*e.g.,* copyrighted material) is not publicly available to read or download through the Web site. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. Contact the OSHA Docket Office for assistance in locating docket submissions.

6. *Extension of comment period:* Submit requests for an extension of the comment period on or before January 12, 2015 to the Office of Technical Programs and Coordination Activities, Directorate of Technical Support and Emergency Management, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue NW., Room N–3655, Washington, DC 20210, or by fax to (202) 693–1644.

FOR FURTHER INFORMATION CONTACT: Information regarding this notice is available from the following sources:

Press inquiries: Contact Mr. Frank Meilinger, Director, OSHA Office of Communications, U.S. Department of Labor, 200 Constitution Avenue NW., Room N–3647, Washington, DC 20210; telephone: (202) 693–1999; email: *Meilinger.francis2@dol.gov.*

General and technical information: Contact Mr. David W. Johnson, Director, Office of Technical Programs and Coordination Activities, Directorate of Technical Support and Emergency Management, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue NW.,

Room N–3655, Washington, DC 20210; phone: (202) 693–2110 or email: *johnson.david.w@dol.gov.*

SUPPLEMENTARY INFORMATION:

Copies of this ***Federal Register*** *notice.* Electronic copies of this **Federal Register** notice are available at *http://www.regulations.gov.* This **Federal Register** notice, as well as news releases and other relevant information, also are available at OSHA's Web page at *http://www.osha.gov.*

Hearing Requests. According to 29 CFR 1905.15, hearing requests must include: (1) A short and plain statement detailing how the proposed variance would affect the requesting party; (2) a specification of any statement or representation in the variance application that the commenter denies, and a concise summary of the evidence adduced in support of each denial; and (3) any views or arguments on any issue of fact or law presented in the variance application.

I. Notice of Application

On April 26, 2012, Traylor Bros., Inc., 835 N. Congress Ave., Evansville, IN 47715, and Traylor/Skanska/Jay Dee Joint Venture, Blue Plains Tunnel, 5000 Overlook SW., Washington, DC 20032, submitted under Section 6(d) of the Occupational Safety and Health Act of 1970 (''OSH Act''; 29 U.S.C. 655) and 29 CFR 1905.11 (''Variances and other relief under section 6(d)'') an application for a permanent variance from several provisions of the OSHA standard that regulates work in compressed air at 29 CFR 1926.803. OSHA is addressing this request as two separate applications: (1) Traylor Bros., Inc. (''Traylor'') request for a permanent variance for future tunneling projects; and (2) Traylor/Skanska/Jay Dee Joint Venture, Blue Plains Tunnel (''Traylor JV'' or ''the applicant''). This notice only addresses the Traylor JV application for an interim order and permanent variance for the Blue Plains project.[1] This notice does not address the Traylor application for a permanent variance for future projects. That request will be addressed separately.

Traylor JV also requested an interim order pending OSHA's decision on the application for a variance (Ex. OSHA–2012–0035–0002). Specifically, this notice addresses the application submitted by Traylor JV (for the Blue Plains Tunnel project) in which the applicant seeks a permanent variance and interim order from the provisions of the standard that: (1) Prohibit compressed-air worker exposure to pressures exceeding 50 pounds per square inch (p.s.i.) except in an emergency (29 CFR 1926.803(e)(5)); [2] (2) require the use of the decompression values specified in decompression tables in Appendix A of the compressed-air standard for construction (29 CFR 1926.803(f)(1)); and (3) require the use of automated operational controls and a special decompression chamber (29 CFR 1926.803(g)(1)(iii) and .803(g)(1)(xvii), respectively).

The applicant is a contractor that works on complex tunnel projects using recently developed equipment and procedures for soft-ground tunneling. The applicant's workers engage in the construction of tunnels using advanced shielded mechanical excavation techniques in conjunction with an earth pressure balanced tunnel boring machine (EPBTBM).

According to its application, Traylor is currently the managing partner of Traylor/Skanska/Jay Dee Joint Venture (''Traylor JV''), the general contractor for the DC Water and Sewer Authority's project to construct the Blue Plains tunnel. Traylor JV asserts that generally, it bores tunnels (*i.e.,* Blue Plains tunnel) below the water table through soft soils consisting of clay, silt, and sand. Traylor JV employs specially trained personnel for the construction of the tunnel, and states that this construction will use shielded mechanical-excavation techniques. Traylor JV asserts that its workers perform hyperbaric interventions at pressures greater than 50 p.s.i.g. in the excavation chamber of the EPBTBM; these interventions consist of conducting inspections and maintenance work on the cutter-head structure and cutting tools of the EPBTBM.

Traylor JV asserts that innovations in tunnel excavation, specifically with EPBTBMs, have, in most cases, eliminated the need to pressurize the entire tunnel. This technology negates the requirement that all members of a tunnel-excavation crew work in compressed air while excavating the tunnel. These advances in technology modified substantially the methods used by the construction industry to excavate subaqueous tunnels compared to the caisson work regulated by the current OSHA compressed-air standard for construction at 29 CFR 1926.803. Such advances reduce the number of workers exposed, and the total duration of exposure, to hyperbaric pressure during tunnel construction.

Using shielded mechanical-excavation techniques, in conjunction with precast concrete tunnel liners and backfill grout, EPBTBMs provide methods to achieve the face pressures required to maintain a stabilized tunnel face through various geologies, and isolate that pressure to the forward section (the working chamber) of the EPBTBM. Interventions in the working chamber (the pressurized portion of the EPBTBM) take place only after halting tunnel excavation and preparing the machine and crew for an intervention. Interventions occur to inspect or maintain the mechanical-excavation components located in the working chamber. Maintenance conducted in the working chamber includes changing replaceable cutting tools and disposable wear bars, and, in rare cases, repairing structural damage to the cutter head.

In addition to innovations in tunnel-excavation methods, Traylor JV asserts that innovations in hyperbaric medicine and technology improve the safety of decompression from hyperbaric exposures. According to Traylor JV, the use of decompression protocols incorporating oxygen is at least as effective for tunnel workers as compliance with the decompression tables specified by the existing OSHA standard (29 CFR 1926, subpart S, Appendix A decompression tables). These hyperbaric exposures are possible due to advances in technology, a better understanding of hyperbaric medicine, and the development of a project-specific Hyperbaric Operations Manual (HOM) that requires specialized medical support and hyperbaric supervision to provide assistance to a team of specially trained man-lock attendants and hyperbaric or compressed-air workers.

OSHA initiated a technical review of the Traylor JV's variance application and developed a set of follow-up questions that it sent to Traylor JV on September 17, 2012 (Ex. OSHA–2012–0035–0010). On October 26, 2012, Traylor JV submitted its response and a request for an interim order for the Blue Plains Tunnel Project (Ex. OSHA–2012–0035–0008). In its response to OSHA's follow-up questions, Traylor JV indicated that the maximum pressure to which it is likely to expose workers during interventions for the Blue Plains tunnel project is 52 p.s.i.g. and would not involve the use of trimix breathing gas (composed of a mixture of oxygen, nitrogen, and helium in varying concentrations used for breathing by compressed air workers for compression

[1] See Section III discussion of proposed condition A Scope.

[2] The decompression tables in Appendix A of subpart S express the maximum working pressures as pounds per square inch gauge (p.s.i.g.), with a maximum working pressure of 50 p.s.i.g. Therefore, throughout this notice, OSHA expresses the 50 p.s.i. value specified by § 1926.803(e)(5) as 50 p.s.i.g., consistent with the terminology in Appendix A, Table 1 of subpart S.

and decompression when working at pressures exceeding 73 p.s.i.g.). Therefore, to work effectively on this project, Traylor JV must perform hyperbaric interventions in compressed air at pressures higher than the maximum pressure specified by the existing OSHA standard, 29 CFR 1926.803(e)(5), which states: ''No employee shall be subjected to pressure exceeding 50 p.s.i.g. except in emergency'' (see footnote 2).

OSHA considered Traylor JV's application for a permanent variance and interim order for the Blue Plains tunnel project. OSHA determined that Traylor JV proposed an alternative that will provide a workplace as safe and healthful as that provided by the standard. On July 11, 2013, OSHA granted Traylor JV a project-specific interim order for the completion of the Blue Plains tunnel (Ex. OSHA–2012–0035–0007) in order to permit the applicant to begin work while OSHA continued to consider its application for a permanent variance.

II. The Variance Application

A. Background

Traylor JV asserts that the advances in tunnel excavation technology described in Section I of this notice modified significantly the equipment and methods used by contractors to construct subaqueous tunnels, thereby making several provisions of OSHA's compressed-air standard for construction at 29 CFR 1926.803 inappropriate for this type of work. These advances reduce both the number of workers exposed, and the total duration of exposure, to the hyperbaric conditions associated with tunnel construction.

Using shielded mechanical-excavation techniques, in conjunction with pre-cast concrete tunnel liners and backfill grout, EPBTBMs provide methods to achieve the face pressures required to maintain a stabilized tunnel face, through various geologies, while isolating that pressure to the forward section (working or excavation chamber) of the EPBTBM.

Interventions involving the working chamber (the pressurized chamber at the head of the EPBTBM) take place only after the applicant halts tunnel excavation and prepares the machine and crew for an intervention. Interventions occur to inspect or maintain the mechanical-excavation components located in the forward portion of the working chamber. Maintenance conducted in the forward portion of the working chamber includes changing replaceable cutting tools, disposable wear bars, and, in rare cases, repairs to the cutter head due to structural damage.

In addition to innovations in tunnel-excavation methods, research conducted after OSHA published its compressed-air standard for construction in 1971, resulted in advances in hyperbaric medicine. In this regard, the applicant asserts that the use of decompression protocols incorporating oxygen is more efficient, effective, and safer for tunnel workers than compliance with the existing OSHA standard (29 CFR 1926, subpart S, Appendix A decompression tables). According to the applicant, contractors routinely and safely expose employees performing interventions in the working chamber of EPBTBMs to hyperbaric pressures up to 75 p.s.i.g., which is 50% higher than maximum pressure specified by the existing OSHA standard (see 29 CFR 1926.803(e)(5)).

The applicant contends that the alternative safety measures included in its application provide its workers with a place of employment that is at least as safe and healthful as they would obtain under the existing provisions of OSHA's compressed-air standard for construction. The applicant certifies that it provided employee representatives of affected workers with a copy of the variance application.[3] The applicant also certifies that it notified its workers of the variance application by posting, at prominent locations where it normally posts workplace notices, a summary of the application and information specifying where the workers can examine a copy of the application. In addition, the applicant informed its workers and their representatives of their rights to petition the Assistant Secretary of Labor for Occupational Safety and Health for a hearing on the variance application.

B. Variance From Paragraph (e)(5) of 29 CFR 1926.803, Prohibition of Exposure to Pressure Greater Than 50 p.s.i.g. (See Footnote 1)

The applicant states that it may perform hyperbaric interventions at pressures greater than 50 p.s.i.g. in the working chamber of the EPBTBM; this pressure exceeds the pressure limit of 50 p.s.i.g. specified for nonemergency purposes by 29 CFR 1926.803(e)(5). The EPBTBM has twin man locks, with each man lock having two compartments. This configuration allows workers to access the man locks for compression and decompression, and medical personnel to access the man locks if required in an emergency.

EPBTBMs are capable of maintaining pressure at the tunnel face, and stabilizing existing geological conditions, through the controlled use of propel cylinders, a mechanically driven cutter head, bulkheads within the shield, ground-treatment foam, and a screw conveyor that moves excavated material from the working chamber. As noted earlier, the forward-most portion of the EPBTBM is the working chamber, and this chamber is the only pressurized segment of the EPBTBM. Within the shield, the working chamber consists of two sections: The staging chamber and the forward working chamber. The staging chamber is the section of the working chamber between the man-lock door and the entry door to the forward working chamber. The forward working chamber is immediately behind the cutter head and tunnel face.

The applicant will pressurize the working chamber to the level required to maintain a stable tunnel face. Pressure in the staging chamber ranges from atmospheric (no increased pressure) to a maximum pressure equal to the pressure in the working chamber. The applicant asserts that most of the hyperbaric interventions will be around 14.7 p.s.i.g. However, the applicant maintains that they may have to perform interventions at pressures up to 52 p.s.i.g.

During interventions, workers enter the working chamber through one of the twin man locks that open into the staging chamber. To reach the forward part of the working chamber, workers pass through a door in a bulkhead that separates the staging chamber from the forward working chamber. The maximum crew size allowed in the forward working chamber is three. At certain hyperbaric pressures (*i.e.,* when decompression times are greater than work times), the twin man locks allow for crew rotation. During crew rotation, one crew can be compressing or decompressing while the second crew is working. Therefore, the working crew always has an unoccupied man lock at its disposal.

The applicant developed a project-specific HOM for the Blue Plains tunnel (Ex. OSHA–2012–0035–0003) that describes in detail the hyperbaric procedures and required medical examinations used during the tunnel-construction project. The HOM discusses standard operating procedures and emergency and contingency procedures. The procedures include using experienced and knowledgeable man-lock attendants who have the training and experience necessary to recognize and treat decompression illnesses and injuries. The attendants

[3] See the definition of ''Affected employee or worker'' in section V.D.

are under the direct supervision of the hyperbaric supervisor and attending physician. In addition, procedures include medical screening and review of prospective compressed-air workers (CAWs). The purpose of this screening procedure is to vet prospective CAWs with medical conditions (*e.g.,* deep vein thrombosis, poor vascular circulation, and muscle cramping) that could be aggravated by sitting in a cramped space (*e.g.,* a man lock) for extended periods or by exposure to elevated pressures and compressed gas mixtures. A transportable recompression chamber (shuttle) is available to extract workers from the hyperbaric working chamber for emergency evacuation and medical treatment; the shuttle attaches to the topside medical lock, which is a large recompression chamber. The applicant believes that the procedures included in the HOM provide safe work conditions when interventions are necessary, including interventions above 50 p.s.i.g.

C. Variance From Paragraph (f)(1) of 29 CFR 1926.803, Requirement To Use OSHA Decompression Tables

OSHA's compressed-air standard for construction requires decompression in accordance with the decompression tables in Appendix A of 29 CFR 1926, subpart S (see 29 CFR 1926.803(f)(1)). As an alternative to the OSHA decompression tables, the applicant proposes to use newer decompression schedules that supplement breathing air used during decompression with pure oxygen. The applicant asserts that these decompression protocols are safer for tunnel workers than the decompression protocols specified in Appendix A of 29 CFR 1926, subpart S.

Accordingly, the applicant proposes to use the 1992 French Decompression Tables to decompress CAWs after they exit the hyperbaric conditions in the working chamber. Depending on the maximum working pressure and exposure times, the 1992 French Decompression Tables provide for air decompression with or without oxygen. Traylor JV asserts that oxygen decompression has many benefits, including (1) keeping the partial pressure of nitrogen in the lungs as low as possible; (2) keeping external pressure as low as possible to reduce the formation of bubbles in the blood; (3) removing nitrogen from the lungs and arterial blood and increasing the rate of elimination of nitrogen; (4) improving the quality of breathing during decompression stops so that workers are less tired and to prevent bone necrosis; (5) reducing decompression time by about 33 percent as compared to air decompression; and (6) reducing inflammation. As described in Section IV of this notice, OSHA's review of the use of oxygen in several major tunneling projects completed in the past indicates that it contributed significantly to the reduction of decompression illness (DCI) and other associated adverse effects observed and reported among CAWs.

In addition, the HOM requires a physician certified in hyperbaric medicine to manage the medical condition of CAWs during hyperbaric exposures and decompression. A trained and experienced man-lock attendant also will be present during hyperbaric exposures and decompression. This man-lock attendant will operate the hyperbaric system to ensure compliance with the specified decompression table. A hyperbaric supervisor (competent person), trained in hyperbaric operations, procedures, and safety, directly oversees all hyperbaric interventions, and ensures that staff follow the procedures delineated in the HOM or by the attending physician.

The applicant asserts that at higher hyperbaric pressures, decompression times exceed 75 minutes. The HOM establishes protocols and procedures that provide the basis for alternate means of protection for CAWs under these conditions. Accordingly, based on these protocols and procedures, the applicant requests to use the 1992 French Decompression Tables for hyperbaric interventions up to 52 p.s.i.g. for completion of the Blue Plains tunnel project. The applicant is committed to follow the decompression procedures described in the Blue Plains tunnel project-specific HOM during these interventions.

D. Variance From Paragraph (g)(1)(iii) of 29 CFR 1926.803, Automatically Regulated Continuous Decompression

According to the applicant, breathing air under hyperbaric conditions increases the amount of nitrogen gas dissolved in a CAW's tissues. The greater the hyperbaric pressure under these conditions, and the more time spent under the increased pressure, the greater the amount of nitrogen gas dissolved in the tissues. When the pressure decreases during decompression, tissues release the dissolved nitrogen gas into the blood system, which then carries the nitrogen gas to the lungs for elimination through exhalation. Releasing hyperbaric pressure too rapidly during decompression can increase the size of the bubbles formed by nitrogen gas in the blood system, resulting in DCI, commonly referred to as ''the bends.'' This description of the etiology of DCI is consistent with current scientific theory and research on the issue (see footnote 12 in this notice discussing a 1985 NIOSH report on DCI).

The 1992 French Decompression Tables proposed for use by the applicant provide for stops during worker decompression (*i.e.,* staged decompression) to control the release of nitrogen gas from tissues into the blood system. Studies show that staged decompression, in combination with other features of the 1992 French Decompression Tables such as the use of oxygen, result in a lower incidence of DCI than the OSHA decompression requirements of 29 CFR 1926.803, which specify the use of automatically regulated continuous decompression (see footnotes 9 through 14 in this notice for references to these studies).[4] In addition, the applicant asserts that staged decompression is at least as effective as an automatic controller in regulating the decompression process because:

1. A hyperbaric supervisor (a competent person experienced and trained in hyperbaric operations, procedures, and safety) directly supervises all hyperbaric interventions and ensures that the man-lock attendant, who is a competent person in the manual control of hyperbaric systems, follows the schedule specified in the decompression tables, including stops; and

2. The use of the 1992 French Decompression Tables for staged decompression offers an equal or better level of management and control over the decompression process than an automatic controller and results in lower occurrences of DCI.

[4] In the study cited in footnote 10, starting at page 338, Dr. Eric Kindwall notes that the use of automatically regulated continuous decompression in the Washington State safety standards for compressed-air work (from which OSHA derived its decompression tables) was at the insistence of contractors and the union, and against the advice of the expert who calculated the decompression table and recommended using staged decompression. Dr. Kindwall then states, ''Continuous decompression is inefficient and wasteful. For example, if the last stage from 4 psig . . . to the surface took 1 h, at least half the time is spent at pressures less than 2 psig . . ., which provides less and less meaningful bubble suppression. . . .'' In addition, the report referenced in footnote 5 under the section titled, ''Background on the Need for Interim Decompression Tables'' addresses the continuous-decompression protocol in the OSHA compressed-air standard for construction, noting that ''[a]side from the tables for saturation diving to deep depths, no other widely used or officially approved diving decompression tables use straight line, continuous decompressions at varying rates. Stage decompression is usually the rule, since it is simpler to control.''

Accordingly, the applicant is applying for a permanent variance from the OSHA standard at 29 CFR 1926.803(g)(1)(iii), which requires automatic controls to regulate decompression. As noted above, the applicant is committed to conduct the staged decompression according to the 1992 French Decompression Tables under the direct control of the trained man-lock attendant and under the oversight of the hyperbaric supervisor.

E. Variance From Paragraph (g)(1)(xvii) of 29 CFR 1926.803, Requirement of Special Decompression Chamber

The OSHA compressed-air standard for construction requires employers to use a special decompression chamber when total decompression time exceeds 75 minutes (see 29 CFR 1926.803(g)(1)(xvii)). Another provision of OSHA's compressed-air standard calls for locating the special decompression chamber adjacent to the man lock on the atmospheric pressure side of the tunnel bulkhead (see 29 CFR 1926.803(g)(2)(vii)). However, since only the working chamber of the EPBTBM is under pressure, and only a few workers out of the entire crew are exposed to hyperbaric pressure, the man locks (which, as noted earlier, connect directly to the working chamber) are of sufficient size to accommodate the exposed workers. In addition, available space in the EPBTBM does not allow for an additional special decompression lock. Again, the applicant uses the man locks, each of which adequately accommodates a three-member crew, for this purpose when decompression lasts up to 75 minutes. When decompression exceeds 75 minutes, crews can open the door connecting the two compartments in each man lock during decompression stops or exit the man lock and move into the staging chamber where additional space is available. This alternative enables CAWs to move about and flex their joints to prevent neuromuscular problems during decompression.

F. Previous Tunnel Construction Variance

OSHA notes that on May 23, 2014, it granted a sub-aqueous tunnel construction permanent variance to Tully/OHL USA Joint Venture (79 FR 29809) from the same provisions of the standard that regulates work in compressed air (at 29 CFR 1926.803(e)(5), (f)(1), (g)(1)(iii), and (g)(1)(xvii)) that are the subject of the present application. Generally, the proposed alternate conditions in this notice are based on and very similar to the alternate conditions of the previous permanent variance.

G. Multi-State Variance

As stated earlier in this notice, Traylor JV applied for an interim order for its Blue Plains Tunnel project only. On July 11, 2013, OSHA granted an interim order to cover only the Blue Plains tunnel project, which is located entirely in the District of Columbia and thus under Federal OSHA's exclusive jurisdiction.

Additionally, twenty-seven state safety and health plans have been approved by OSHA under section 18 of the (OSH) Act.[5] As part of the permanent variance process, the Directorate of Cooperative and State Programs will notify the State Plans of Traylor JV's variance application and grant of the Blue Plains interim order. In considering Traylor JV's application for a permanent variance and interim order, OSHA noted that four states have previously granted sub-aqueous tunnel construction variances and imposed different or additional requirements and conditions (California, Nevada, Oregon, and Washington). California also promulgated a new standard (*e.g.,* California[6]) for similar sub-aqueous tunnel construction work.

Five State Plans (Connecticut, Illinois, New Jersey, New York, and the Virgin Islands) cover only public-sector workers and have no authority over the private-sector workers addressed in this variance application (*i.e.,* that authority continues to reside with Federal OSHA).

III. Description of the Conditions Specified by the Application for a Permanent Variance

As indicated in Section I of this notice, on July 11, 2013, OSHA granted Traylor JV a project specific interim order for the completion of the Blue Plains tunnel in order to permit the applicant to begin work. The project-specific interim order is to remain in effect until completion of the Blue Plains tunnel project[7] or until the Agency modifies or revokes the interim order or makes a decision on Traylor JV's application for a permanent variance. The substantive terms of the interim order are identical to the terms of the proposed permanent variance discussed further below.

This section describes the alternative means of compliance with 29 CFR 1926.803(e)(5), (f)(1), (g)(1)(iii), and (g)(1)(xvii) and provides additional detail regarding the proposed conditions that form the basis of Traylor JV's application for a permanent variance.

Proposed Condition A: Scope

The scope of the proposed permanent variance limits coverage to the work situations specified under this proposed condition. Clearly defining the scope of the proposed permanent variance provides Traylor JV, Traylor JV's employees, other stakeholders, the public, and OSHA with necessary information regarding the work situations in which the proposed permanent variance would apply.

According to 29 CFR 1905.11, an employer or class or group of employers[8] may request a permanent variance for a specific workplace or workplaces. If granted, the variance would apply to the specific employer(s) that submitted the application. In this instance, if OSHA were to grant a permanent variance, it would apply to the applicant, Traylor/Skanska/Jay Dee Joint Venture at the Blue Plains Tunnel project only. As a result, it is important to understand that the interim order and proposed variance does not apply to any other employers.

Proposed Condition B: Application

This proposed condition specifies the circumstances under which the proposed permanent variance would be in effect, notably only for hyperbaric work performed during interventions. The proposed condition places clear limits on the circumstances under which the applicant can expose its employees to hyperbaric pressure.

Proposed Condition C: List of Abbreviations

Proposed condition C defines a number of abbreviations used in the proposed permanent variance. OSHA believes that defining these abbreviations serves to clarify and standardize their usage, thereby enhancing the applicant's and its employees' understanding of the

[5] Five State Plans (Connecticut, Illinois, New Jersey, New York, and the Virgin Islands) limit their occupational safety and health authority to state and local employers only. State Plans that exercise their occupational safety and health authority over both public- and private-sector employers are: Alaska, Arizona, California, Hawaii, Indiana, Iowa, Kentucky, Maryland, Michigan, Minnesota, Nevada, New Mexico, North Carolina, Oregon, Puerto Rico, South Carolina, Tennessee, Utah, Vermont, Virginia, Washington, and Wyoming.

[6] See California Code of Regulations, Title 8, Subchapter 7, Group 26, Article 154, available at *http://www.dir.ca.gov/title8/sb7g26a154.html.*

[7] The contractual completion date of the Blue Plains tunnel is November 10, 2015.

[8] A class or group of employers (such as members of a trade alliance or association) may apply jointly for a variance provided an authorized representative for each employer signs the application and the application identifies each employer's affected facilities.

conditions specified by the proposed permanent variance.

Proposed Condition D: Definitions

The proposed condition defines a series of terms, mostly technical terms, used in the proposed permanent variance to standardize and clarify their meaning. Defining these terms serves to enhance the applicant's and its employees' understanding of the conditions specified by the proposed permanent variance.

Proposed Condition E: Safety and Health Practices

This proposed condition requires the applicant to develop and submit to OSHA an HOM specific to the Blue Plains project at least six months before using the EPBTBM for tunneling operations. Additionally, the proposed condition includes a series of related hazard prevention and control requirements and methods (*e.g.,* decompression tables, job hazard analyses (JHA), operations and inspections checklists, incident investigation, recording and notification to OSHA of recordable hyperbaric injuries and illnesses, etc.) designed to ensure the continued effective functioning of the hyperbaric equipment and operating system.

Review of the HOM enables OSHA to: (1) Determine that the safety and health instructions and measures it specifies would be appropriate and would adequately protect the safety and health of the CAWs; and (2) request the applicant to revise or modify the HOM if it finds that the hyperbaric safety and health procedures are not suitable for the specific project and would not adequately protect the safety and health of the CAWs. Once approved, the project specific HOM becomes part of the variance, thus enabling OSHA to enforce its safety and health procedures and measures.[9]

Proposed Condition F: Communication

Proposed condition F would require the applicant to develop and implement an effective system of information sharing and communication. Effective information sharing and communication ensures that affected workers receive updated information regarding any safety-related hazards and incidents, and corrective actions taken, prior to the start of each shift. The proposed condition also requires the applicant to ensure that reliable means of emergency communications are available and maintained for affected workers and support personnel during hyperbaric operations. Availability of such reliable means of communications would enable affected workers and support personnel to respond quickly and effectively to hazardous conditions or emergencies that may develop during EPBTBM operations.

Proposed Condition G: Worker Qualification and Training

This proposed condition would require the applicant to develop and implement an effective qualification and training program for affected workers. The proposed condition specifies the factors that an affected worker must know to perform safely during hyperbaric operations, including how to enter, work in, and exit from hyperbaric conditions under both normal and emergency conditions. Having well-trained and qualified workers performing hyperbaric intervention work ensures that they recognize, and respond appropriately to, hyperbaric safety and health hazards. These qualification and training requirements enable affected workers to cope effectively with emergencies, as well as the discomfort and physiological effects of hyperbaric exposure, thereby preventing worker injury, illness, and fatalities.

Paragraph (2)(e) of this proposed condition also would require the applicant to provide affected workers with information they can use to contact the appropriate healthcare professionals if they believe they are developing hyperbaric-related health effects. This requirement provides for early intervention and treatment of DCI and other health effects resulting from hyperbaric exposure, thereby reducing the potential severity of these effects.

Proposed Condition H: Inspections, Tests, and Accident Prevention

Proposed condition H would require the applicant to develop, implement, and operate a program of frequent and regular inspections of the EPBTBM's hyperbaric equipment and support systems, and associated work areas. This condition would help to ensure the safe operation and physical integrity of the equipment and work areas necessary to conduct hyperbaric operations. The condition would also enhance worker safety by reducing the risk of hyperbaric-related emergencies.

Paragraph (3) of this proposed condition would require the applicant to document tests, inspections, corrective actions, and repairs involving the EPBTBM, and maintain these documents at the job site for the duration of the job. This requirement would provide the applicant with information needed to schedule tests and inspections to ensure the continued safe operation of the equipment and systems, and to determine that the actions taken to correct defects in hyperbaric equipment and systems were appropriate, prior to returning them to service.

Proposed Condition I: Compression and Decompression

This proposed condition would require the applicant to consult with its designated medical advisor regarding special compression or decompression procedures appropriate for any unacclimated CAW. This proposed provision would ensure that the applicant consults with the medical advisor, and involves the medical advisor in the evaluation, development, and implementation of compression or decompression protocols appropriate for any CAW requiring acclimation to the hyperbaric conditions encountered during EPBTBM operations. Accordingly, CAWs requiring acclimation would have an opportunity to acclimate prior to exposure to these hyperbaric conditions. OSHA believes this condition would prevent or reduce adverse reactions among CAWs to the effects of compression or decompression associated with the intervention work they perform in the EPBTBM.

Proposed Condition J: Recordkeeping

Proposed condition J would require the applicant to maintain records of specific factors associated with each hyperbaric intervention. The information gathered and recorded under this provision, in concert with the information provided under proposed condition K (using the OSHA 301 Incident Report form to investigate and record hyperbaric recordable injuries as defined by 29 CFR 1904.4, 1904.7, 1904.8 through 1904.12), would enable the applicant and OSHA to determine the effectiveness of the permanent variance in preventing DCI and other hyperbaric-related effects.[10]

Proposed Condition K: Notifications

Under this proposed condition, the applicant would be required, within specified periods to: (1) Notify OSHA of any recordable injuries, illnesses, or

[9] Grant of the July 11, 2013, project-specific interim order constitutes interim acknowledgement by OSHA of the acceptability of the HOM provided by Traylor JV for the Blue Plains tunnel project.

[10] See 29 CFR 1904 Recording and Reporting Occupational Injuries and Illnesses (*http://www.osha.gov/pls/oshaweb/owadisp.show_document?p_table=STANDARDS&p_id=9631*); recordkeeping forms and instructions (*http://www.osha.gov/recordkeeping/RKform300pkg-fillable-enabled.pdf*); and OSHA Recordkeeping Handbook (*http://www.osha.gov/recordkeeping/handbook/index.html*).

fatalities that occur as a result of hyperbaric exposures during EPBTBM operations; (2) provide OSHA with a copy of the incident investigation report (using OSHA 301 form) of these events; (3) include on the 301 form information on the hyperbaric conditions associated with the recordable injury or illness, the root-cause determination, and preventive and corrective actions identified and implemented; (4) provide its certification that it informed affected workers of the incident and the results of the incident investigation; (5) notify the Office of Technical Programs and Coordination Activities (OTPCA) and the Baltimore/Washington DC Area Office within 15 working days should the applicant need to revise its HOM to accommodate changes in its compressed-air operations that affect its ability to comply with the conditions of the proposed permanent variance; and (6) provide OTPCA and the Baltimore/Washington DC Area Office, at the end of the project, with a report evaluating the effectiveness of the decompression tables.

These notification requirements would enable the applicant, its employees, and OSHA to determine the effectiveness of the permanent variance in providing the requisite level of safety to the applicant's workers and, based on this determination, whether to revise or revoke the conditions of the proposed permanent variance. Timely notification would permit OSHA to take whatever action may be necessary and appropriate to prevent further injuries and illnesses. Providing notification to employees would inform them of the precautions taken by the applicant to prevent similar incidents in the future.

This proposed condition would also require the applicant to notify OSHA if it ceases to do business, has a new address or location for its main office, or transfers the operations covered by the proposed permanent variance to a successor company. In addition, the condition specifies that OSHA must approve the transfer of the permanent variance to a successor company. These requirements would allow OSHA to communicate effectively with the applicant regarding the status of the proposed permanent variance, and expedite the Agency's administration and enforcement of the permanent variance. Stipulating that an applicant would be required to have OSHA's approval to transfer a variance to a successor company would provide assurance that the successor company has knowledge of, and will comply with, the conditions specified by proposed permanent variance, thereby ensuring the safety of workers involved in performing the operations covered by the proposed permanent variance.

IV. Grant of Interim Order

As noted earlier, on July 11, 2013, OSHA granted Traylor JV an interim order to remain in effect until completion of the Blue Plains tunnel project or until the Agency modifies or revokes the interim order or makes a decision on its application for a permanent variance. (Ex. OSHA–2012–0035–0007.) Based on Traylor JV's assertions in its application, the interim order addresses CAWs performing interventions in hyperbaric conditions up to 52 p.s.i.g. that do not involve the use of trimix. OSHA affirms the Blue Plains tunnel project-specific interim order. During the period starting with the publication of this notice until completion of the Blue Plains tunnel or the Agency modifies or revokes the interim order or makes a decision on its application for a permanent variance, the applicant is required to comply fully with the conditions of the interim order (as an alternative to complying with the requirements of 29 CFR 1926.803 (hereafter, ''the standard'') that:

A. Prohibit employers using compressed air under hyperbaric conditions from subjecting workers to pressure exceeding 50 p.s.i.g., except in emergency (29 CFR 1926.803(e)(5));

B. Require the use of decompression values specified by the decompression tables in Appendix A of the compressed-air standard (29 CFR 1926.803(f)(1)); and

C. Require the use of automated operational controls and a special decompression chamber (29 CFR 1926.803(g)(1)(iii) and .803(g)(1)(xvii), respectively).

After reviewing the proposed alternatives OSHA preliminarily determined that:

A. Traylor JV developed, and proposed to implement, effective alternative measures to the prohibition of using compressed air under hyperbaric conditions exceeding 50 p.s.i.g. The alternative measures include use of engineering and administrative controls of the hazards associated with work performed in compressed-air conditions exceeding 50 p.s.i.g. while engaged in the construction of a subaqueous tunnel using advanced shielded mechanical-excavation techniques in conjunction with an EPBTBM. Prior to conducting interventions in the EPBTBM's pressurized working chamber, the applicant halts tunnel excavation and prepares the machine and crew to conduct the interventions. Interventions involve inspection, maintenance, or repair of the mechanical-excavation components located in the working chamber.

B. Traylor JV developed, and proposed to implement, safe hyperbaric work procedures, emergency and contingency procedures, and medical examinations for the Blue Plains tunneling project's CAWs. The applicant compiled these standard operating procedures into a project-specific HOM (Ex. OSHA–2012–0035–007). The HOM discusses the procedures and personnel qualifications for performing work safely during the compression and decompression phases of interventions. The HOM also specifies the decompression tables the applicant proposes to use. Depending on the maximum working pressure and exposure times during the interventions, the tables provide for decompression using air, pure oxygen, or a combination of air and oxygen. The decompression tables also include delays or stops for various time intervals at different pressure levels during the transition to atmospheric pressure (*i.e.,* staged decompression). In all cases, a physician certified in hyperbaric medicine will manage the medical condition of CAWs during decompression. In addition, a trained and experienced man-lock attendant, experienced in recognizing decompression sickness or illnesses and injuries, will be present. Of key importance, a hyperbaric supervisor (competent person), trained in hyperbaric operations, procedures, and safety, will directly supervise all hyperbaric operations to ensure compliance with the procedures delineated in the project-specific HOM or by the attending physician.

C. Traylor JV developed, and proposed to implement, a training program to instruct affected workers in the hazards associated with conducting hyperbaric operations.

D. Traylor JV developed, and proposed to implement, an effective alternative to the use of automatic controllers that continuously decrease pressure to achieve decompression in accordance with the tables specified by the standard. The alternative includes using the 1992 French Decompression Tables for guiding staged decompression to achieve lower occurrences of DCI, using a trained and competent attendant for implementing appropriate hyperbaric entry and exit procedures, and providing a competent hyperbaric supervisor and attending physician certified in hyperbaric medicine, to oversee all hyperbaric operations.

E. Traylor JV developed, and proposed to implement, an effective alternative to the use of the special decompression chamber required by the standard. EPBTBM technology permits the tunnel's work areas to be at atmospheric pressure, with only the face of the EPBTBM (*i.e.,* the working chamber) at elevated pressure during interventions. The applicant would limit interventions conducted in the working chamber to performing required inspection, maintenance, and repair of the cutting tools on the face of the EPBTBM. The EPBTBM's man lock and working chamber provide sufficient space for the maximum crew of three CAWs to stand up and move around, and safely accommodate decompression times up to 360 minutes. Therefore, OSHA preliminarily determined that the EPBTBM's man lock and working chamber function as effectively as the special decompression chamber required by the standard.

OSHA conducted a review of the scientific literature regarding decompression to determine whether the alternative decompression method (*i.e.,* the 1992 French Decompression Tables) Traylor JV proposed would provide a workplace as safe and healthful as that provided by the standard. Based on this review, OSHA determined that tunneling operations performed with these tables [11] resulted in a lower occurrence of DCI than the decompression tables specified by the standard.[12] [13] [14]

The review conducted by OSHA found several research studies supporting the determination that the 1992 French Decompression Tables resulted in a lower rate of DCI than the decompression tables specified by the standard. For example, H. L. Anderson studied the occurrence of DCI at maximum hyperbaric pressures ranging from 4 p.s.i.g. to 43 p.s.i.g. during construction of the Great Belt Tunnel in Denmark (1992–1996); [15] this project used the 1992 French Decompression Tables to decompress the workers during part of the construction. Anderson observed 6 DCI cases out of 7,220 decompression events, and reported that switching to the 1992 French Decompression tables reduced the DCI incidence to 0.08%. The DCI incidence in the study by H. L. Andersen is substantially less than the DCI incidence reported for the decompression tables specified in Appendix A. OSHA found no studies in which the DCI incidence reported for the 1992 French Decompression Tables were higher than the DCI incidence reported for the OSHA decompression tables.[16] Therefore, OSHA preliminarily concludes that the proposed use of the 1992 French Decompression Tables would protect workers at least as effectively as the OSHA decompression tables.

Based on a review of available evidence, the experience of State Plans that either granted variances (Nevada, Oregon and Washington) [17] or promulgated a new standard (California) [18] for hyperbaric exposures occurring during similar subaqueous tunnel-construction work, and the information provided in the applicant's variance application, OSHA is proposing the grant of the permanent variance.

Under section 6(d) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 655), the Agency finds that when the employer complies with the conditions of the previously granted interim order, or the conditions of the proposed variance, the working conditions of the employer's workers would be at least as safe and healthful as if the employer complied with the working conditions specified by paragraphs (e)(5), (f)(1), (g)(1)(iii), and (g)(1)(xvii) of 29 CFR 1926.803. Therefore, Traylor JV will: (1) Comply with the conditions listed in the Blue Plains tunnel project interim order granted on July 11, 2013, for the period between the grant of the interim order and Traylor's completion of the Blue Plains tunnel project (or until the Agency modifies or revokes the interim order or makes a decision on its application for a permanent variance); (2) comply fully with the specific conditions of the variance, if granted; (3) comply fully with all other applicable provisions of 29 CFR part 1926; and (4) provide a copy of this **Federal Register** notice to all employees affected by the proposed conditions, including the affected employees of other employers, using the same means it used to inform these employees of its application for a permanent variance.

V. Specific Conditions of the Proposed Permanent Variance

OSHA affirms the previously granted Blue Plains tunnel project specific interim order authorizing Traylor/Skanska/Jay Dee Joint Venture (''Traylor JV'') to comply with said conditions instead of complying with the requirements of paragraphs 29 CFR 1926.803(e)(5), (f)(1), (g)(1)(iii), and (g)(1)(xvii). In addition, the proposed conditions included in this notice specify the alternative means of compliance with the requirements of paragraphs 29 CFR 1926.803(e)(5), (f)(1), (g)(1)(iii), and (g)(1)(xvii) that Traylor JV is proposing for its permanent variance. The proposed conditions would apply to all employees of Traylor JV exposed to hyperbaric conditions. These proposed conditions would be:

A. Scope

The permanent variance would apply only to work:

1. That occurs in conjunction with construction of the Blue Plains tunnel project, a tunnel constructed using advanced shielded mechanical-excavation techniques and involving operation of an EPBTBM;

2. Performed under compressed-air and hyperbaric conditions up to 52 p.s.i.g;

3. In the EPBTBM's forward section (the working chamber) and associated hyperbaric chambers used to pressurize

[11] In 1992, the French Ministry of Labour replaced the 1974 French Decompression Tables with the 1992 French Decompression Tables, which differ from OSHA's decompression tables in Appendix A by using: (1) Staged decompression as opposed to continuous (linear) decompression; (2) decompression tables based on air or both air and pure oxygen; and (3) emergency tables when unexpected exposure times occur (up to 30 minutes above the maximum allowed working time).

[12] Kindwall, EP (1997). Compressed air tunneling and caisson work decompression procedures: Development, problems, and solutions. *Undersea and Hyperbaric Medicine,* 24(4), pp. 337–345. This article reported 60 treated cases of DCI among 4,168 exposures between 19 and 31 p.s.i.g. over a 51-week contract period, for a DCI incidence of 1.44% for the decompression tables specified by the OSHA standard.

[13] Sealey, JL (1969). Safe exit from the hyperbaric environment: Medical experience with pressurized tunnel operations. *Journal of Occupational Medicine,* 11(5), pp. 273–275. This article reported 210 treated cases of DCI among 38,600 hyperbaric exposures between 13 and 34 p.s.i.g. over a 32-month period, for an incidence of 0.54% for the decompression tables specified by the Washington State safety standards for compressed-air work, which are similar to the tables in the OSHA standard. Moreover, the article reported 51 treated cases of DCI for 3,000 exposures between 30 and 34 p.s.i.g., for an incidence of 1.7% for the Washington State tables.

[14] In 1985, the National Institute for Occupational Safety and Health (NIOSH) published a report entitled ''Criteria for Interim Decompression Tables for Caisson and Tunnel Workers''; this report reviewed studies of DCI and other hyperbaric-related injuries resulting from use of OSHA's tables. This report is available on NIOSH's Web site: *http://www.cdc.gov/niosh/topics/decompression/default.html.*

[15] Anderson HL (2002). Decompression sickness during construction of the Great Belt tunnel, Denmark. *Undersea and Hyperbaric Medicine,* 29(3), pp. 172–188.

[16] Le Péchon JC, Barre P, Baud JP, Ollivier F (September 1996). Compressed air work—French Tables 1992—operational results. *JCLP Hyperbarie Paris, Centre Medical Subaquatique Interentreprise, Marseille: Communication a l'EUBS,* pp. 1–5 (see Ex. OSHA–2012–0036–0005).

[17] See 79 FR 29816, footnote 12.

[18] See California Code of Regulations, Title 8, Subchapter 7, Group 26, Article 154, available at *http://www.dir.ca.gov/title8/sb7g26a154.html.*

and decompress employees entering and exiting the working chamber;

4. Except for the requirements specified by 29 CFR 1926.803(e)(5), (f)(1), (g)(1)(iii), and (g)(1)(xvii), Traylor JV would be required to comply fully with all other applicable provisions of 29 CFR part 1926; and

B. Application

The permanent variance would apply only when Traylor JV stops the tunnel-boring work, pressurizes the working chamber, and the CAWs either enter the working chamber to perform interventions (*i.e.,* inspect, maintain, or repair the mechanical-excavation components), or exit the working chamber after performing interventions.

C. List of Abbreviations

Abbreviations used throughout this proposed permanent variance would include the following:

1. CAW—Compressed-air worker
2. CFR—Code of Federal Regulations
3. DCI—Decompression Illness
4. EPBTBM—Earth Pressure Balanced Tunnel Boring Machine
5. HOM—Hyperbaric Operations and Safety Manual
6. JHA—Job hazard analysis
7. OSHA—Occupational Safety and Health Administration
8. OTPCA—Office of Technical Programs and Coordination Activities

D. Definitions

The following definitions would apply to this proposed permanent variance. These definitions would supplement the definitions in Traylor JV's project-specific HOM.

1. *Affected employee or worker*—an employee or worker who is affected by the conditions of this proposed permanent variance, or any one of his or her authorized representatives. The term ''employee'' has the meaning defined and used under the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 *et seq.*)

2. *Atmospheric pressure*—the pressure of air at sea level, generally 14.7 p.s.i.a., 1 atmosphere absolute, or 0 p.s.i.g.

3. *Compressed-air worker*—an individual who is specially trained and medically qualified to perform work in a pressurized environment while breathing air at pressures up to 52 p.s.i.g.

4. *Competent person*—an individual who is capable of identifying existing and predictable hazards in the surroundings or working conditions that are unsanitary, hazardous, or dangerous to employees, and who has authorization to take prompt corrective measures to eliminate them.[19]

5. *Decompression illness* (also called decompression sickness or the bends)—an illness caused by gas bubbles appearing in body compartments due to a reduction in ambient pressure. Examples of symptoms of decompression illness include (but are not limited to): Joint pain (also known as the ''bends'' for agonizing pain or the ''niggles'' for slight pain); areas of bone destruction (termed dysbaric osteonecrosis); skin disorders (such as cutis marmorata, which causes a pink marbling of the skin); spinal cord and brain disorders (such as stroke, paralysis, paresthesia, and bladder dysfunction); cardiopulmonary disorders, such as shortness of breath; and arterial gas embolism (gas bubbles in the arteries that block blood flow).[20]

Note: Health effects associated with hyperbaric intervention but not considered symptoms of DCI can include: Barotrauma (direct damage to air-containing cavities in the body such as ears, sinuses and lungs); nitrogen narcosis (reversible alteration in consciousness that may occur in hyperbaric environments and is caused by the anesthetic effect of certain gases at high pressure); and oxygen toxicity (a central nervous system condition resulting from the harmful effects of breathing molecular oxygen (O_2) at elevated partial pressures).

6. *Earth Pressure Balanced Tunnel Boring Machine*—the machinery used to excavate the tunnel.

7. *Hot work*—any activity performed in a hazardous location that may introduce an ignition source into a potentially flammable atmosphere.[21]

8. *Hyperbaric*—at a higher pressure than atmospheric pressure.

9. *Hyperbaric intervention*—a term that describes the process of stopping the EPBTBM and preparing and executing work under hyperbaric pressure in the working chamber for the purpose of inspecting, replacing, or repairing cutting tools and/or the cutterhead structure.

10. *Hyperbaric Operations Manual*—a detailed, project-specific health and safety plan developed and implemented by Traylor JV for working in compressed air during the Blue Plains' tunnel project.

11. *Job hazard analysis*—an evaluation of tasks or operations to identify potential hazards and to determine the necessary controls.

12. *Man lock*—an enclosed space capable of pressurization, and used for compressing or decompressing any employee or material when either is passing into or out of a working chamber.

13. *Pressure*—a force acting on a unit area. Usually expressed as pounds per square inch (p.s.i.).

14. *p.s.i.*—pounds per square inch, a common unit of measurement of pressure; a pressure given in p.s.i. corresponds to absolute pressure.

15. *p.s.i.a.*—pounds per square inch absolute, or absolute pressure, is the sum of the atmospheric pressure and gauge pressure. At sea-level, atmospheric pressure is approximately 14.7 p.s.i. Adding 14.7 to a pressure expressed in units of p.s.i.g. will yield the absolute pressure, expressed as p.s.i.a.

16. *p.s.i.g.*—pounds per square inch gauge, a common unit of pressure; pressure expressed as p.s.i.g. corresponds to pressure relative to atmospheric pressure. At sea-level, atmospheric pressure is approximately 14.7 p.s.i. Subtracting 14.7 from a pressure expressed in units of p.s.i.a. yields the gauge pressure, expressed as p.s.i.g.

17. *Qualified person*—an individual who, by possession of a recognized degree, certificate, or professional standing, or who, by extensive knowledge, training, and experience, successfully demonstrates an ability to solve or resolve problems relating to the subject matter, the work, or the project.[22]

18. *Working chamber*—an enclosed space in the EPBTBM in which CAWs perform interventions, and which is accessible only through a man lock.

E. Safety and Health Practices

1. Traylor JV would have to develop and implement an HOM specific to the Blue Plains project, and submit the HOM to OSHA at least six months before using the EPBTBM. Traylor JV would have to receive a written acknowledgement from OSHA regarding the acceptability of the HOM.[23] The HOM would provide the governing safety and health requirements regarding hyperbaric exposures during the tunnel-construction project.

2. Traylor JV would have to implement the safety and health instructions included in the manufacturer's operations manuals for the EPBTBM, and the safety and health instructions provided by the

[19] Adapted from 29 CFR 1926.32(f).

[20] See Appendix 10 of ''A Guide to the Work in Compressed Air Regulations 1996,'' published by the United Kingdom Health and Safety Executive available from NIOSH at *http://www.cdc.gov/niosh/docket/archive/pdfs/NIOSH-254/compReg1996.pdf.*

[21] Also see 29 CFR 1910.146(b).

[22] Adapted from 29 CFR 1926.32(m).

[23] See footnote 9.

manufacturer for the operation of decompression equipment.

3. Traylor JV would have to use air as the only breathing gas in the working chamber.

4. Traylor JV would have to use the 1992 French Decompression Tables for air, air-oxygen, and oxygen decompression specified in the HOM, specifically the extracted portions of the 1992 French Decompression tables titled ''French Regulation Air Standard Tables.''

5. Traylor JV would have to equip man-locks used by its employees with an oxygen-delivery system as specified by the HOM. Traylor JV would be required to not store oxygen or other compressed gases used in conjunction with hyperbaric work in the tunnel.

6. Workers performing hot work under hyperbaric conditions would have to use flame-retardant personal protective equipment and clothing.

7. In hyperbaric work areas, Traylor JV would have to maintain an adequate fire-suppression system approved for hyperbaric work areas.

8. Traylor JV would have to develop and implement one or more JHAs for work in the hyperbaric work areas, and review, periodically and as necessary (*e.g.,* after making changes to a planned intervention that affects its operation), the contents of the JHAs with affected employees. The JHAs would have to include all the job functions that the risk assessment [24] indicates are essential to prevent injury or illness.

9. Traylor JV would have to develop a set of checklists to guide compressed-air work and ensure that employees follow the procedures required by this proposed permanent variance (including all procedures required by the HOM, which this proposed variance would incorporate by reference). The checklists would have to include all steps and equipment functions that the risk assessment indicates are essential to prevent injury or illness during compressed-air work.

10. Traylor JV would have to ensure that the safety and health provisions of the HOM adequately protect the workers of all contractors and subcontractors involved in hyperbaric operations.[25]

F. Communication

1. Prior to beginning a shift, Traylor JV would have to implement a system that informs workers exposed to hyperbaric conditions of any hazardous occurrences or conditions that might affect their safety, including hyperbaric incidents, gas releases, equipment failures, earth or rock slides, cave-ins, flooding, fires, or explosions.

2. Traylor JV would have to provide a power-assisted means of communication among affected workers and support personnel in hyperbaric conditions where unassisted voice communication is inadequate.

(a) Traylor JV would have to use an independent power supply for powered communication systems, and these systems would have to operate such that use or disruption of any one phone or signal location will not disrupt the operation of the system from any other location.

(b) Traylor JV would have to test communication systems at the start of each shift and as necessary thereafter to ensure proper operation.

G. Worker Qualifications and Training

Traylor JV would have to:

1. Ensure that each affected worker receives effective training on how to safely enter, work in, exit from, and undertake emergency evacuation or rescue from, hyperbaric conditions, and document this training.

2. Provide effective instruction, before beginning hyperbaric operations, to each worker who performs work, or controls the exposure of others, in hyperbaric conditions, and document this instruction. The instruction would have to include topics such as:

(a) The physics and physiology of hyperbaric work;

(b) Recognition of pressure-related injuries;

(c) Information on the causes and recognition of the signs and symptoms associated with decompression illness, and other hyperbaric intervention-related health effects (*e.g.,* barotrauma, nitrogen narcosis, and oxygen toxicity).

(d) How to avoid discomfort during compression and decompression; and

(e) Information the workers can use to contact the appropriate healthcare professionals should the workers have concerns that they may be experiencing adverse health effects from hyperbaric exposure.

3. Repeat the instruction specified in paragraph (b) of this proposed condition periodically and as necessary (*e.g.,* after making changes to its hyperbaric operations).

4. When conducting training for its hyperbaric workers make this training available to OSHA personnel and notify the OTPCA at OSHA's national office and OSHA's nearest affected Area Office before the training takes place.

H. Inspections, Tests, and Accident Prevention

1. Traylor JV would have to initiate and maintain a program of frequent and regular inspections of the EPBTBM's hyperbaric equipment and support systems (such as temperature control, illumination, ventilation, and fire-prevention and fire-suppression systems), and hyperbaric work areas, as required under 29 CFR 1926.20(b)(2) by:

(a) Developing a set of checklists to be used by a competent person in conducting weekly inspections of hyperbaric equipment and work areas; and

(b) Ensuring that a competent person conducts daily visual checks and weekly inspections of the EPBTBM.

2. If the competent person determines that the equipment constitutes a safety hazard, Traylor JV would have to remove the equipment from service until it corrects the hazardous condition and has the correction approved by a qualified person.

3. Traylor JV would have to maintain records of all tests and inspections of the EPBTBM, as well as associated corrective actions and repairs, at the job site for the duration of the job.

I. Compression and Decompression

Traylor JV would have to consult with its attending physician concerning the need for special compression or decompression exposures appropriate for CAWs not acclimated to hyperbaric exposure.

J. Recordkeeping

Traylor JV would have to maintain a record of any recordable injury, illness, or fatality (as defined by 29 CFR part 1904 Recording and Reporting Occupational Injuries and Illnesses), resulting from exposure of an employee to hyperbaric conditions by completing the OSHA 301 Incident Report form and OSHA 300 Log of Work Related Injuries and Illnesses.

Note: Examples of important information to include on the OSHA 301 Incident Report form (along with the corresponding question on the form) are: The task performed (Question (Q) 14); an estimate of the CAW's workload (Q 14); the composition of the gas mixture (*e.g.,* air or oxygen (Q 14)); the maximum working pressure (Q 14); temperature in the work and decompression environments (Q 14); unusual occurrences, if any, during the task or decompression (Q 14); time of symptom onset (Q 15); duration between decompression and onset of symptoms (Q 15); type and duration of symptoms (Q 16); a medical summary of the illness or injury (Q 16); duration of the

[24] See ANSI/AIHA Z10–2012, American National Standard for Occupational Health and Safety Management Systems, for reference.

[25] See ANSI/ASSE A10.33–2011, American National Standard for Construction and Demolition Operations—Safety and Health Program Requirements for Multi-Employer Projects, for reference.

hyperbaric intervention (Q 17); possible contributing factors (Q 17); the number of prior interventions completed by the injured or ill CAW (Q 17); the number of prior interventions completed by the injured or ill CAW at this working pressure (Q 17); contact information for the treating healthcare provider (Q 17); and date and time of last hyperbaric exposure for this CAW.

In addition to completing the OSHA 301 Incident Report form and OSHA 300 Log of Work Related Injuries and Illnesses, Traylor JV would have to maintain records of:

1. The date, times (*e.g.,* began compression, time spent compressing, time performing intervention, time spent decompressing), and pressure for each hyperbaric intervention.
2. The name of each individual worker exposed to hyperbaric pressure and the decompression protocols and results for each worker.
3. The total number of interventions and the amount of hyperbaric work time at each pressure.
4. The results of the post-intervention physical assessment of each CAW for signs and symptoms of decompression illness, barotrauma, nitrogen narcosis, oxygen toxicity or other health effects associated with work in compressed air for each hyperbaric intervention.

K. Notifications

1. To assist OSHA in administering the conditions specified herein, Traylor JV would have to:

(a) Notify the OTPCA and the Baltimore/Washington DC Area Office of any recordable injury, illness, or fatality (by submitting the completed OSHA 301 Incident Report form [26]) resulting from exposure of an employee to hyperbaric conditions including those that do not require recompression treatment (*e.g.,* nitrogen narcosis, oxygen toxicity, barotrauma), but still meet the recordable injury or illness criteria of 29 CFR 1904. The notification would have to be made within 8 hours of the incident or 8 hours after becoming aware of a recordable injury, illness, or fatality, and submit a copy of the incident investigation (OSHA form 301) within 24 hours of the incident or 24 hours after becoming aware of a recordable injury, illness, or fatality. In addition to the information required by the OSHA form 301, the incident-investigation report would have to include a root-cause determination, and the preventive and corrective actions identified and implemented.

(b) Provide certification within 15 working days of the incident that Traylor JV informed affected workers of the incident and the results of the incident investigation (including the root-cause determination and preventive and corrective actions identified and implemented).

(c) Notify the OTPCA and the Baltimore/Washington DC Area Office within 15 working days and in writing, of any change in the compressed-air operations that affects Traylor JV's ability to comply with the proposed conditions specified herein.

(d) Upon completion of the Blue Plains tunnel project, evaluate the effectiveness of the decompression tables used throughout the project, and provide a written report of this evaluation to the OTPCA and the Baltimore/Washington DC Area Office.

Note: The evaluation report would have to contain summaries of: (1) The number, dates, durations, and pressures of the hyperbaric interventions completed; (2) decompression protocols implemented (including composition of gas mixtures (air and/or oxygen), and the results achieved; (3) the total number of interventions and the number of hyperbaric incidents (decompression illnesses and/or health effects associated with hyperbaric interventions as recorded on OSHA 301 and 300 forms, and relevant medical diagnoses and treating physicians' opinions); and (4) root causes of any hyperbaric incidents, and preventive and corrective actions identified and implemented.

(e) To assist OSHA in administering the proposed conditions specified herein, inform the OTPCA and the Baltimore/Washington DC Area Office as soon as possible after it has knowledge that it will:

(i) Cease to do business;

(ii) Change the location and address of the main office for managing the tunneling operations specified herein; or

(iii) Transfer the operations specified herein to a successor company.

(f) Notify all affected employees of this proposed permanent variance by the same means required to inform them of its application for a variance.

2. OSHA would have to approve the transfer of the proposed permanent variance to a successor company.

VI. Authority and Signature

David Michaels, Ph.D., MPH, Assistant Secretary of Labor for Occupational Safety and Health, 200 Constitution Avenue NW., Washington, DC 20210, authorized the preparation of this notice. Accordingly, the Agency is issuing this notice pursuant to Section 29 U.S.C. 655(6)(d), Secretary of Labor's Order No. 1–2012 (77 FR 3912, Jan. 25, 2012), and 29 CFR 1905.11.

Signed at Washington, DC, on December 5, 2014.

David Michaels,

Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2014–28994 Filed 12–10–14; 8:45 am]

BILLING CODE 4510–26–P

[26] See footnote 10.

NUCLEAR REGULATORY COMMISSION

[Docket No. 52–024; NRC–2008–0233]

Entergy Operations, Inc.; Combined License Application for Grand Gulf, Unit 3

AGENCY: Nuclear Regulatory Commission.

ACTION: Exemption.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing an exemption in response to a July 18, 2014, request from Entergy Operations, Inc. (EOI), which requested an exemption from addressing enhancements to the Emergency Preparedness (EP) rules in their Combined License (COL) application. The NRC staff reviewed this request and determined that it is appropriate to grant the exemption but stipulated that the revised application must be submitted the earlier of either the NRC's resumption of EOI's application review or by December 31, 2015.

DATES: December 11, 2014.

ADDRESSES: Please refer to Docket ID NRC–2008–0233 when contacting the NRC about the availability of information regarding this document. You may obtain publicly-available information related to this action by the following methods:

- Federal Rulemaking Web site: Go to *http://www.regulations.gov* and search for Docket ID NRC–2008–0233. Address questions about NRC dockets to Carol Gallagher; telephone: 301–287–3422; email: *Carol.Gallagher@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- NRC's Agencywide Documents Access and Management System (ADAMS): You may access publicly available documents online in the NRC Library at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''ADAMS Public Documents'' and then select ''*Begin Web-based ADAMS Search.''* For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The

ADAMS accession number for each document referenced in this document (if that document is available in ADAMS) is provided the first time that the 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: Lynnea Wilkins, Office of New Reactors, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–1377; email: *Lynnea.Wilkins@nrc.gov.*

SUPPLEMENTARY INFORMATION: The following sections include the text of the exemption in its entirety as issued to EOI.

1.0 Background

On February 27, 2008, EOI submitted to the NRC a COL application for one Economic Simplified Boiling-Water Reactor to be constructed and operated at the Grand Gulf Nuclear Station (GGNS) site in Claiborne County, Mississippi. On April 17, 2008, the NRC accepted for docketing the Grand Gulf Nuclear Station, Unit 3 (GGNS3) COL application (ADAMS Accession No. ML081050460, Docket No. 52–024). On January 9, 2009, EOI requested that the NRC temporarily suspend review of the application and the NRC granted EOI's request (ADAMS Accession No. ML090080523) while the application remained docketed. On September 30, 2013 (ADAMS Accession No. ML13275A065), EOI requested an exemption from the requirements of 10 CFR part 50, Appendix E, Section I.5, as referenced by Title 10 of the Code of *Federal Regulations* (10 CFR) 52.79(a)(21), to submit an update by December 31, 2014. The exemption was granted by the NRC on December 4, 2013 (ADAMS Accession Nos. ML13295A461 and ML13295A464). On July 18, 2014 (ADAMS Accession No. ML14202A338), EOI requested another exemption from the requirements of 10 CFR part 50, Appendix E, Section I.5.

2.0 Request/Action

Part 50, Appendix E, Section I.5 requires that an applicant for a COL under Subpart C of 10 CFR part 52 whose application was docketed prior to December 23, 2011, must revise their COL application to comply with the EP rules published in the **Federal Register** (76 FR 72560) on November 23, 2011. Part 50, Appendix E, Section I.5 gives those COL applicants close to receiving their COL the option to defer addressing the changes to the EP rules; however, a license amendment request must be submitted no later than December 31, 2013. An applicant that does not receive a COL before December 31, 2013, shall revise its COL application to comply with these EP rule changes no later than December 31, 2013. Because EOI will not hold a COL prior to December 31, 2013, it is therefore, required to revise its application to be compliant with the new EP rules by December 31, 2013. By letter dated January 9, 2009, EOI requested that the NRC suspend review of the GGNS3 COL application. The NRC granted EOI's request for suspension of all review activities while the application remained docketed (ADAMS Accession No. ML090080523). On September 30, 2013, EOI requested an exemption from the requirements of 10 CFR part 50, Appendix E, Section I.5, to submit an update by December 31, 2014, to the COL application. The exemption was granted by the NRC on December 4, 2013 and is set to expire on December 31, 2014. In a letter dated, July 18, 2014, EOI requested an exemption from the requirements of 10 CFR part 50, Appendix E, Section I.5 the earlier of either the time that EOI requests reactivation of the GGNS3 COL application review or on December 31, 2015. With either the reactivation request or on December 31, 2015 EOI commits to submit an upgrade of the GGNS3 COL application addressing the enhancements to Emergency Preparedness Regulations.

EOI requested an exemption from the requirements of 10 CFR part 50, Appendix E, Section I.5 to December 31, 2015 or coincident with resuming the review of the RBS3 COL application, whichever occurs first. The exemption would allow EOI to comply with the new EP rule at a later date, but still in advance of NRC's reinstating its review of the application and in any event, by December 31, 2015. The current schedule to comply with the new EP rule by December 31, 2013, could not be changed, absent the exemption.

3.0 Discussion

Pursuant to 10 CFR 50.12, the Commission may, upon application by any interested person or upon its own initiative, grant exemptions from the requirements of 10 CFR part 50, including 10 CFR part 50, Appendix E, Section I.5, when: (1) the exemption(s) are authorized by law, will not present an undue risk to public health or safety, and are consistent with the common defense and security; and (2) special circumstances are present. As relevant to the requested exemption, special circumstances exist if: ''application of the regulation in the particular circumstances would not serve the underlying purpose of the rule or is not necessary to achieve the underlying purpose of the rule'' (10 CFR 50.12(a)(2)(ii)).

The purpose of 10 CFR part 50 Appendix E, Section I.5 was to ensure that applicants and new COL holders updated their COL application or Combined License to allow the NRC to review them efficiently and effectively, and to bring the applicants or licensees into compliance prior to COL approval and receipt of license, or operate the facility. The target of Section I.5 of the rule was those applications that were in the process of being actively reviewed by the NRC staff when the rule came into effect on November 23, 2011. Because EOI requested the NRC to suspend its review of the GGNS3 COL application, compelling EOI to revise its COL application in order to meet the December 31, 2013, compliance deadline would only bring on unnecessary burden and hardship for the applicant to meet the compliance date. As long as it is recognized that the COL application must be updated to comply with the enhancements to the EP rules, prior to the NRC approving EOI's COL application, it makes no difference if EOI revises the COL application now, the earlier of EOI's request to restart the review or December 31, 2015. For this reason the application of Appendix E, Section I.5 can be deemed unnecessary and, therefore, special circumstances are present.

Authorized by Law

The exemption is a schedule exemption from the requirements of 10 CFR part 50, Appendix E, Section I.5. The exemption would allow EOI to revise its COL application and comply with the new EP rules, at the earlier of a request for a restart of the application's review or December 31, 2015, in lieu of December 31, 2013 the date required by 10 CFR part 50, Appendix E, Section I.5. As stated above, 10 CFR 50.12 allows the NRC to grant exemptions from the requirements of 10 CFR part 50 . The NRC staff has determined that granting EOI the requested exemption from the requirements of 10 CFR part 50, Appendix E, Section I.5 will be only temporary, and will not result in a violation of the Atomic Energy Act of 1954, as amended, or NRC's regulations. Therefore, the exemption is authorized by law.

No Undue Risk to Public Health and Safety

The underlying purpose of the enhancements to Emergency Preparedness found in 10 CFR part 50, Appendix E is to amend certain EP requirements which are aimed at enhancing protective measures in the event of a radiological emergency; address, in part, enhancements identified after the terrorist events of September 11, 2001; clarify regulations to effect consistent Emergency Plan implementation among licensees; and modify certain requirements to be more effective and efficient. Since plant construction cannot proceed until the NRC review of the application is completed, a mandatory hearing is completed, and a license is issued, the exemption does not increase the probability of postulated accidents. Additionally, based on the nature of the requested exemption as described above, no new accident precursors are created by the exemption; thus, neither the probability, nor the consequences of postulated accidents are increased. Therefore, there is no undue risk to public health and safety.

Consistent With Common Defense and Security

The requested exemption would allow EOI to submit the revised COL application the earlier of a requested restart of the NRC COL application review or on December 31, 2015. This schedule change has no relation to security issues. Therefore, the common defense and security is not impacted.

Special Circumstances

Special circumstances, in accordance with 10 CFR 50.12(a)(2)(ii), are present whenever ''application of the regulation in the particular circumstances would not serve the underlying purpose of the rule or is not necessary to achieve the underlying purpose of the rule'' (10 CFR 50.12(a)(2)(ii)). The underlying purpose of 10 CFR part 50, Appendix E, Section I.5 is to ensure that applicants are in compliance with the new EP rules in a time that allows the NRC to effectively review their revised COL application prior to issuance of the license. Because the requirement to comply with the new EP rules was intended for active reviews and the GGNS3 COL application review is now suspended, the application of this regulation in this particular circumstance is unnecessary in order to achieve its underlying purpose. If the NRC were to grant this exemption EOI would then be required to comply by the earlier of a restart of the review or December 31, 2015 and the purpose of the rule would still be achieved. Therefore, the special circumstances required by 10 CFR 50.12(a)(2)(ii) for the granting of an exemption from 10 CFR part 50, Appendix E, Section I.5 exist.

Eligibility for Categorical Exclusion From Environmental Review

With respect to the exemption's impact on the quality of the human environment, the NRC has determined that this specific exemption request is eligible for categorical exclusion as identified in 10 CFR 51.22(c)(25) and justified by the NRC staff as discussed below.

10 CFR 51.22(c)(25)(i): The criteria for determining whether there is no significant hazards consideration are found in 10 CFR 50.92(c)(1)-(3). The proposed action involves only a schedule change regarding the submission of an update to the application for which the licensing review has been suspended. There are no significant hazards considerations because granting the proposed exemption would not involve a significant increase in the probability or consequences of an accident previously evaluated, create the possibility of a new or different kind of accident from any accident previously evaluated, or involve a significant reduction in a margin of safety.

10 CFR 51.22(c)(25)(ii): The proposed action involves only a schedule change which is administrative in nature, and does not involve any changes to be made in the types or significant increase in the amounts of effluents that may be released offsite.

10 CFR 51.22(c)(25)(iii): Since the proposed action involves only a schedule change which is administrative in nature, it does not contribute to any significant increase in occupational or public radiation exposure.

10 CFR 51.22(c)(25)(iv): The proposed action involves only a schedule change which is administrative in nature; the COL application review is suspended until further notice, and there is no consideration of any construction at this time, and hence the proposed action does not involve any construction impact.

10 CFR 51.22(c)(25)(v): The proposed action involves only a schedule change which is administrative in nature, and does not impact the probability or consequences of radiological accidents.

10 CFR 51.22(c)(25)(vi)(B) and (G): The exemption request involves submitting an updated COL application by EOI and relates to the schedule for submitting a COL application update to the NRC.

4.0 Conclusion

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12(a)(1) and (2), the exemption is authorized by law, will not present an undue risk to the public health and safety, and is consistent with the common defense and security. Also special circumstances are present. Therefore, the Commission hereby grants EOI the exemption from the requirements of 10 CFR 50, Appendix E, Section I.5 pertaining to the Grand Gulf Unit 3 COL application to allow submittal of the revised COL application that complies with the new EP rules the earlier of any request to the NRC to resume the review or by December 31, 2015.

Pursuant to 10 CFR 51.22, the Commission has determined that the exemption request meets the applicable categorical exclusion criteria set forth in 10 CFR 51.22(c)(25), and the granting of this exemption will not have a significant effect on the quality of the human environment.

This exemption is effective upon issuance.

Dated at Rockville, Maryland, this 3rd day of December 2014.

For the Nuclear Regulatory Commission.

Ronaldo Jenkins,

Branch Chief, Licensing Branch 3, Division of New Reactor Licensing, Office of New Reactors.

[FR Doc. 2014–28999 Filed 12–10–14; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 52–036; NRC–2008–0616]

Entergy Operations, Inc. Combined License Application for River Bend Unit 3

AGENCY: Nuclear Regulatory Commission.

ACTION: Exemption; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing an exemption in response to a July 18, 2014, request from Entergy Operations, Inc. (EOI) which requested an exemption from Final Safety Analysis Report (FSAR) updates included in their Combined License (COL) application. The NRC staff reviewed this request and determined that it is appropriate to grant the exemption with the stipulation that the updates to the FSAR must be submitted the earlier of the resumption of the COL application review or December 31, 2015.

DATES: December 11, 2014.

ADDRESSES: Please refer to Docket ID NRC–2008–0616 when contacting the NRC about the availability of information regarding this document. You may access publicly-available information related to this action by the following methods:

- Federal Rulemaking Web site: Go to *http://www.regulations.gov* and search for Docket ID NRC–2008–0616. Address questions about NRC dockets to Carol Gallagher; telephone: 301–287–3422; email: *Carol.Gallagher@nrc.gov.* For technical questions, contact the individuals listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- NRC's Agencywide Documents Access and Management System (ADAMS): You may access publicly available documents online in the NRC Library at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''*ADAMS Public Documents*'' and then select ''*Begin Web-based ADAMS Search.''* For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The ADAMS accession number for each document referenced in this document (if that document is available in ADAMS) is provided the first time that the 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: Lynnea Wilkins, Office of New Reactors, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–1377; email: *Lynnea.Wilkins@gmail.com.*

SUPPLEMENTARY INFORMATION: The following sections include the text of the exemption in its entirety as issued to EOI.

I. Background

On September 25, 2008, EOI submitted to the NRC a COL application for one Economic Simplified Boiling-Water Reactor to be constructed and operated near St. Francisville, Louisiana in West Feliciana Parish. On December 4, 2008, the NRC accepted for docketing the River Bend Station Unit 3 (RBS3) COL application (ADAMS Accession No. ML083370275, Docket No. 52–036). On January 9, 2009, EOI requested that the NRC temporarily suspend review of the application and the NRC granted EOI's request (ADAMS Accession No. ML090080277) while the application remained docketed. On December 3, 2012 (ADAMS Accession No. ML12342A231), EOI submitted updates to the Final Safety Analysis Report (FSAR), per Section 50.71(e)(3)(iii) of Title 10 of the *Code of Federal Regulations* (10 CFR). On September 30, 2013 (ADAMS Accession No. ML13275A066), EOI requested an exemption from the 10 CFR 50.71(e)(3)(iii) requirements to submit COL FSAR updates. The exemption was granted by the NRC on December 4, 2013 (ADAMS Accession Nos. ML13297A247 and ML13297A248). On July 18, 2014 (ADAMS Accession No. ML14202A337), EOI requested another exemption from the 10 CFR 50.71(e)(3)(iii) requirements to submit COL FSAR updates.

II. Request/Action

Section 50.71(e)(3)(iii) requires that an applicant for a COL under Subpart C of 10 CFR part 52, must update their FSAR annually during the period from docketing the application to the Commission making its 10 CFR 52.103(g) finding.

Pursuant to 10 CFR 50.71(e)(3)(iii) the next scheduled annual update of the FSAR concerning the RBS3 COL application would be due in December 2014 based on the granted exemption on December 4, 2013 (ADAMS Accession Nos. ML13297A247 and ML13297A248). By letter dated January 9, 2009, EOI requested that the NRC suspend review of the RBS3 COL. The NRC granted EOI's request for suspension (ADAMS Accession No. ML090080277) and all review activities related to the RBS3 COL application were suspended while the application remained docketed. In a letter dated, July 14, 2014 (ADAMS Accession No. ML14202A337), EOI requested that the RBS3 COL application be exempt from the 10 CFR 50.71(e)(3)(iii) requirements the earlier of the resumption of the RBS3 COL application review or December 31, 2015.

EOI's requested exemption is interpreted as a schedule change from the requirements of 10 CFR 50.71(e)(3)(iii). The exemption would allow EOI to submit the next FSAR update the earlier of resumption of the EOI application review or December 31, 2015. The current FSAR update requirement could not be changed, absent the exemption.

III. Discussion

Pursuant to 10 CFR 50.12 the Commission may, upon application by any interested person or upon its own initiative, grant exemptions from the requirements of 10 CFR part 50, including 10 CFR 50.71(e)(3)(iii) when: (1) The exemption(s) are authorized by law, will not present an undue risk to public health or safety, and are consistent with the common defense and security; and (2) special circumstances are present. As relevant to the requested exemption, special circumstances exist if: ''application of the regulation in the particular circumstances would not serve the underlying purpose of the rule or is not necessary to achieve the underlying purpose of the rule'' (10 CFR 50.12(a)(2)(iii)) and if ''the exemption would provide only temporary relief from the applicable regulation and the licensee or applicant has made good faith efforts to comply with the regulation'' (10 CFR 50.12(a)(2)(v)).

The purpose of 10 CFR 50.71(e)(3)(iii) is to ensure that the NRC has the most up to date information regarding the COL application, in order to perform an efficient and effective review. The rule targeted those applications that are being actively reviewed by the NRC. Because EOI requested the NRC to suspend its review of the RBS3 COL application, compelling EOI to submit its FSAR on an annual basis is not necessary as the FSAR will not be changed or updated until the review is restarted. Requiring the updates would result in undue hardship on EOI, and the purpose of 10 CFR 50.71(e)(3)(iii) would still be achieved if the update is submitted the earlier of the restart of the resumption of EOI's application review or December 31, 2015.

The requested exemption to defer submittal of the next update to the FSAR included in the RBS3 COL application would provide only temporary relief from the regulations of 10 CFR 50.71(e)(3)(iii). As evidenced by the proper submittal of annual updates on December 6, 2010 (ADAMS Accession No. ML103440074), December 7, 2011 (ADAMS Accession No. ML11343A568), and December 3, 2012 (ADAMS Accession No. ML12342A231), EOI has made good faith efforts to comply with 10 CFR 50.71(e)(3)(iii) prior to requesting suspension of the review. EOI's exemption request asks the NRC to grant exemption from 10 CFR 50.71(e)(3)(iii) to December 31, 2015 or coincident with resuming the review of the RBS3 COL application, whichever occurs first.

For the reasons stated above, the application of 10 CFR 50.71(e)(3)(iii) in this particular circumstance can be deemed unnecessary and the granting of the exemption would allow only temporary relief from a rule that the applicant had made good faith efforts to comply with, therefore special circumstances are present.

Authorized by Law

The exemption is a schedule exemption from the requirements of 10 CFR 50.71(e)(3)(iii). The exemption would allow EOI to submit the next RBS3 FSAR update the earlier of the resumption of EOI's application or December 31, 2015 in lieu of the required scheduled submittal in December 2014. As stated above, 10 CFR 50.12 allows the NRC to grant exemptions from the requirements of 10 CFR part 50. The NRC staff has determined that granting EOI the requested exemption from the requirements of 10 CFR 50.71(e)(3)(iii) will provide only temporary relief from this regulation and will not result in a violation of the Atomic Energy Act of 1954, as amended, or the NRC's regulations. Therefore, the exemption is authorized by law.

No Undue Risk to Public Health and Safety

The underlying purposes of 10 CFR 50.71(e)(3)(iii), is to provide for a timely and comprehensive update of the FSAR associated with a COL application in order to support an effective and efficient review by the NRC staff and issuance of the NRC staff's safety evaluation report. The requested exemption is solely administrative in nature, in that it pertains to the schedule for submittal to the NRC of revisions to an application under 10 CFR part 52, for which a license has not been granted. In addition, since the review of the application has been suspended, any update to the application submitted by EOI will not be reviewed by the NRC at this time. Based on the nature of the requested exemption as described above, no new accident precursors are created by the exemption thus, neither the probability, nor the consequences of postulated accidents are increased. Therefore, there is no undue risk to public health and safety. Plant construction cannot proceed until the NRC review of the application is completed, a mandatory hearing is completed and a license decision is made, the probability of postulated accidents is not increased. Additionally, based on the nature of the requested exemption, as described above, no new accident precursors are created by the exemption; thus neither probability, nor the consequences of postulated accidents are not increased. Therefore, there is no undue risk to public health and safety.

Consistent With Common Defense and Security

The exemption would allow EOI to submit the next RBS3 FSAR update the earlier of the resumption of EOI's application review or December 31, 2015. This schedule change has no relation to security issues. Therefore, the common defense and security is not impacted.

Special Circumstances

Special circumstances, in accordance with 10 CFR 50.12(a)(2)(ii) are present ''[a]pplication of the regulation in the particular circumstances would not serve the underlying purpose of the rule or is not necessary to achieve the underlying purpose of the rule'' (10 CFR 50.12(a)(2)(ii)). The underlying purpose of 10 CFR 50.71(e)(3)(iii) is to ensure that the NRC has the most up-to date information in order to perform its review of a COL application efficiently and effectively. Because the requirement to annually update the FSAR was intended for active reviews and the RBS3 COL application review is now suspended, the application of this regulation in this particular circumstance is unnecessary in order to achieve its underlying purpose. If the NRC were to grant this exemption, and EOI were then required to update its FSAR the earlier of the resumption of EOI's application review or December 31, 2015, the purpose of the rule would still be achieved.

Special circumstances, in accordance with 10 CFR 50.12(a)(2)(v) are present whenever the exemption would provide only temporary relief from the regulation and the applicant has made good faith efforts to comply with this regulation. Because of the assumed and imposed new deadline of (the earlier of the resumption of EOI's application review or December 31, 2015), EOI's exemption request seeks only temporary relief from the requirement that it file an update to the FSAR included in the RBS3 COL application. Therefore, since the relief from the requirements of 10 CFR 50.71(e)(3)(iii) would be temporary and the applicant has made good faith efforts to comply with the rule, and the underlying purpose of the rule is not served by application of the rule in this circumstance, the special circumstances required by 10 CFR 50.12(a)(2)(ii) and 10 CFR 50.12(a)(2)(v) for the granting of an exemption from 10 CFR 50.71(e)(3)(iii) exist.

Eligibility for Categorical Exclusion From Environmental Review

With respect to the exemption's impact on the quality of the human environment, the NRC has determined that this specific exemption request is eligible for categorical exclusion as identified in 10 CFR 51.22(c)(25) and justified by the NRC staff as follows:

(c) The following categories of actions are categorical exclusions:

(25) Granting of an exemption from the requirements of any regulation of this chapter, provided that—

(i) There is no significant hazards consideration;

The criteria for determining whether there is no significant hazards consideration are found in 10 CFR 50.92. The proposed action involves only a schedule change regarding the submission of an update to the application for which the licensing review has been suspended. Therefore, there is no significant hazards considerations because granting the proposed exemption would not:

(1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or

(2) Create the possibility of a new or different kind of accident from any accident previously evaluated; or

(3) Involve a significant reduction in a margin of safety.

(ii) There is no significant change in the types or significant increase in the amounts of any effluents that may be released offsite;

The proposed action involves only a schedule change which is administrative in nature, and does not involve any changes to be made in the types or significant increase in the amounts of effluents that may be released offsite.

(iii) There is no significant increase in individual or cumulative public or occupational radiation exposure;

Since the proposed action involves only a schedule change which is administrative in nature, it does not contribute to any significant increase in occupational or public radiation exposure.

(iv) There is no significant construction impact;

The proposed action involves only a schedule change which is administrative in nature; the application review is suspended until further notice, and there is no consideration of any construction at this time, and hence the proposed action does not involve any construction impact.

(v) There is no significant increase in the potential for or consequences from radiological accidents; and

The proposed action involves only a schedule change which is administrative in nature, and does not impact the probability or consequences of accidents.

(vi) The requirements from which an exemption is sought involve:

(B) Reporting requirements;

The exemption request involves submitting an updated FSAR by EOI and

(G) Scheduling requirements;

The proposed exemption relates to the schedule for submitting FSAR updates to the NRC.

IV. Conclusion

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12(a)(1) and (2), the exemption is authorized by law, will not present an undue risk to the public health and safety, and is consistent with the common defense and security. Also special circumstances are present. Therefore, the Commission hereby grants EOI the exemption from the requirements of 10 CFR 50.71(e)(3)(iii) pertaining to the River Bend Station Unit 3 COL application to allow submittal of the next FSAR update the earlier of the resumption of the COL application review or December 31, 2015.

Pursuant to 10 CFR 51.22, the Commission has determined that the exemption request meets the applicable categorical exclusion criteria set forth in 10 CFR 51.22(c)(25), and the granting of this exemption will not have a significant effect on the quality of the human environment.

This exemption is effective upon issuance.

Dated at Rockville, Maryland, this 3rd day of December 2014.

For the Nuclear Regulatory Commission.

Ronaldo Jenkins,

Chief, Licensing Branch 3, Division of New Reactor Licensing, Office of New Reactors.

[FR Doc. 2014–29126 Filed 12–10–14; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2014–0256]

Aquatic Environmental Studies for Nuclear Power Stations

AGENCY: Nuclear Regulatory Commission.

ACTION: Draft regulatory guide; request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing for public comment draft regulatory guide (DG), DG–4023, ''Aquatic Environmental Studies for Nuclear Power Stations.'' This DG provides technical guidance for aquatic environmental studies and analyses supporting decisions related to nuclear power stations by NRC regarding major Federal actions and compliance with the National Environmental Policy Act of 1969.

DATES: Submit comments by February 9, 2015. Comments received after this date will be considered if it is practical to do so, but the NRC is able to ensure consideration only for comments received on or before this date. Although a time limit is given, comments and suggestions in connection with items for inclusion in guides currently being developed or improvements in all published guides are encouraged at any time.

ADDRESSES: You may submit comments by any of the following methods (unless this document describes a different method for submitting comments on a specified subject):

- Federal Rulemaking Web site: Go to *http://www.regulations.gov* and search for Docket ID NRC–2014–0256. Address questions about NRC dockets to Carol Gallagher; telephone: 301–287–3422; email: *Carol.Gallagher@nrc.gov.* For technical questions, contact the individual(s) listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- Mail comments to: Cindy Bladey, Office of Administration, Mail Stop: 3WFN 06A–A44M, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

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

FOR FURTHER INFORMATION CONTACT: Ryan Whited, Office of New Reactors, telephone: 301–415–1154, email: *Ryan.Whited@nrc.gov* and Edward O'Donnell, Office of Nuclear Regulatory Research, telephone: 301–251–7455, email: *Edward.ODonnell@nrc.gov.* Both are staff of the U.S. Nuclear Regulatory Commission, Washington, DC 20555–000

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2014–0256 when contacting the NRC about the availability of information regarding this document. You may obtain publicly-available information related to this document, by any of the following methods:

- Federal Rulemaking Web site: Go to *http://www.regulations.gov* and search for Docket ID NRC–2014–0256. Address questions about NRC dockets to Carol Gallagher; telephone: 301–287–3422; email: *Carol.Gallagher@nrc.gov.* For technical questions, contact the individual(s) listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- NRC's Agencywide Documents Access and Management System (ADAMS): You may access publicly available documents online in the NRC Library at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''*ADAMS Public Documents*'' and then select ''*Begin Web-based ADAMS Search.*'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The DG is electronically available in ADAMS under Accession No. ML13186A085.
- NRC's PDR: You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

B. Submitting Comments

Please include Docket ID NRC–2014–0256 in the subject line of your comment submission, in order to ensure that the NRC is able to make your comment submission available to the public in this docket.

The NRC cautions you not to include identifying or contact information in comment submissions that you do not want to be publicly disclosed in your comment submission. The NRC posts all comment submissions at *http://www.regulations.gov* as well as entering 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 in their comment submissions that they do not want to be publicly disclosed. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment submissions into ADAMS.

II. Additional Information

The NRC is issuing for public comment a DG in the NRC's ''Regulatory Guide'' series. This series was developed to describe and make available to the public such information as methods that are acceptable to the NRC staff for implementing specific

parts of the NRC's regulations, techniques that the staff uses in evaluating specific problems or postulated accidents, and data that the staff needs in its review of applications for permits and licenses.

The DG, entitled, ''Aquatic Environmental Studies for Nuclear Power Stations,'' is a proposed new regulatory guide, and it is temporarily identified by its task number, DG–4023. The DG provides technical guidance for aquatic environmental studies and analyses supporting decisions related to nuclear power stations by NRC. For purposes of DG–4023, the term ''aquatic'' encompasses freshwater, estuarine, and marine environments. The DG addresses wetlands containing submerged aquatic vegetation but does not address wetlands also containing emergent vegetation. Instead, NRC's Regulatory Guide 4.11, ''Terrestrial Environmental Studies for Nuclear Power Stations,'' addresses such wetland features, along with the terrestrial environment. Although the NRC is issuing separate regulatory guides addressing terrestrial and aquatic environmental studies, it recognizes that aquatic and terrestrial ecological issues often overlap and are often interrelated.

III. Backfitting and Issue Finality

Issuance of this DG, if finalized, would not constitute backfitting as defined in § 50.109 of Title 10 of the *Code of Federal Regulations* (10 CFR) (the Backfit Rule) and would not otherwise be inconsistent with the issue finality provisions in 10 CFR part 52. As discussed in the ''Implementation'' section of this DG, the NRC has no current intention to impose this DG, if finalized, on holders of current operating licenses or combined licenses.

This DG, if finalized, may be applied to applications for construction permits, operating licenses, early site permits, combines licenses and limited work authorizations docketed by the NRC as of the date of issuance of the final regulatory guide, as well as future applications for construction permits, operating licenses, early site permits, combines licenses and limited work authorizations submitted after the issuance of the final regulatory guide. Such action would not constitute backfitting as defined in 10 CFR 50.109(a)(1) and would not be inconsistent with the applicable issue finality provision in 10 CFR part 52, inasmuch as such applicants or potential applicants are not within the scope of entities protected by the Backfit Rule or the relevant issue finality provisions in part 52.

Dated at Rockville, Maryland, this 5th day of December, 2014.

For the Nuclear Regulatory Commission.

Harriet Karagiannis,

Acting Chief, Regulatory Guidance and Generic Issues Branch, Division of Engineering, Office of Nuclear Regulatory Research.

[FR Doc. 2014–29026 Filed 12–10–14; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2014–0001]

Sunshine Act Meeting Notice

DATES: Week of December 8, 2014.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public.

Week of December 14, 2014

Tuesday, December 16, 2014

8:55 a.m. Affirmation Session (Public Meeting) (Tentative)

Fermi Combined License Application: Intervenors' Petition for Review of LBP–14–07 (Ruling for Applicant on Quality Assurance) (June 17, 2014) (Tentative)

This meeting will be webcast live at the Web address—*http://www.nrc.gov/*.

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The schedule for Commission meetings is subject to change on short notice. For more information or to verify the status of meetings, contact Glenn Ellmers at (301) 415–0442 or via email at *Glenn.Ellmers@nrc.gov*.

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The NRC Commission Meeting Schedule can be found on the Internet at: *http://www.nrc.gov/public-involve/public-meetings/schedule.html*.

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The NRC provides reasonable accommodation to individuals with disabilities where appropriate. If you need a reasonable accommodation to participate in these public meetings, or need this meeting notice or the transcript or other information from the public meetings in another format (*e.g.*, braille, large print), please notify Kimberly Meyer, NRC Disability Program Manager, at 301–287–0727, by videophone at 240–428–3217, or by email at *Kimberly.Meyer-Chambers@nrc.gov* . Determinations on requests for reasonable accommodation will be made on a case-by-case basis.

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Members of the public may request to receive this information electronically. If you would like to be added to the distribution, please contact the Office of the Secretary, Washington, DC 20555 (301–415–1969), or send an email to *Patricia.Jimenez@nrc.gov* or *Brenda.Akstulewicz@nrc.gov*.

Dated: December 9, 2014.

Glenn Ellmers,

Policy Coordinator, Office of the Secretary.

[FR Doc. 2014–29207 Filed 12–9–14; 4:15 pm]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 70–7005; NRC–2009–0283; EA–14–104]

Supersede Exemption for Waste Control Specialists, LLC; Andrews County, Texas

AGENCY: Nuclear Regulatory Commission.

ACTION: Order; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing a new Order superseding a previously issued Order to Waste Control Specialists, LLC., (WCS) on October 20, 2009 (2009 Order). The previous Order exempted WCS from the NRC's regulations concerning special nuclear material (SNM). The current action is in response to a request by WCS dated July 18, 2014.

ADDRESSES: Please refer to Docket ID NRC–2009–0283 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–2009–0283. Address questions about NRC dockets to Carol Gallagher; telephone: 301–287–3422; email: *Carol.Gallagher@nrc.gov*. For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- NRC's Agencywide Documents Access and Management System (ADAMS): You may obtain publicly available documents online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html*. To begin the search, select ''*ADAMS Public Documents*'' and then select ''*Begin Web-based ADAMS Search.*'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov*. The ADAMS accession number for each

document referenced in this document (if that document is available in ADAMS) is provided the first time that a document is referenced.

• NRC's PDR: You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: Maurice Heath, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–3137; email: *Maurice.Heath@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Introduction

Waste Control Specialists, LLC (WCS), operates a facility in Andrews County, Texas, that is licensed to process and store certain types of radioactive material contained in low-level waste (LLW) and mixed waste (MW). The facility also disposes of hazardous and toxic waste. Under an Agreement authorized by the Atomic Energy Act, as amended (AEA), the NRC can relinquish and a State can assume, regulatory authority over radioactive material specified in an Agreement with NRC. In 1963, Texas entered into an Agreement and assumed regulatory authority over source, byproduct and SNM less than a critical mass.

On November 30, 1997, the State of Texas Department of Health (TDH) issued WCS a radioactive materials license (RML) to possess, treat, and store LLW (RML R04971). In 1997, WCS began accepting Resource Conservation and Recovery Act (RCRA) and Toxic Substance Control Act (TSCA) wastes for treatment, storage, and disposal. Later that year, WCS received a license from the TDH for treatment and storage of MW and LLW. The MW and LLW streams may contain quantities of SNM. In 2007, regulatory responsibility for RML R04971 was transferred by TDH to the Texas Commission on Environmental Quality (TCEQ). In September 2009, the TCEQ issued RML R04100 to WCS for disposal of LLW.

Section 70.3 of Title 10, *Code of Federal Regulations* (10 CFR) part 70 requires persons who own, acquire, deliver, receive, possess, use, or transfer SNM to obtain a license pursuant to the requirements of 10 CFR part 70. The licensing requirements in 10 CFR part 70 apply to persons in Agreement States possessing greater than critical mass quantities, as defined in 10 CFR 150.11. However, pursuant to 10 CFR 70.17(a), ''the Commission may grant such exemptions from the requirements of the regulations in this part as it determines are authorized by law and will not endanger life or property or the common defense and security and are otherwise in the public interest.''

In September 2000, WCS submitted to NRC an exemption request from the licensing requirements in 10 CFR part 70. On November 21, 2001, the NRC issued an Order to WCS (2001 Order) granting an exemption to WCS from certain NRC regulations and permitted WCS, under specified conditions, to possess waste containing SNM in greater quantities than specified in 10 CFR part 150, at the WCS storage and treatment facility in Andrews County, Texas, without obtaining an NRC license pursuant to 10 CFR part 70. The 2001 NRC Order was published in the **Federal Register** on November 15, 2001 (66 FR 57489). As seen in the attachments to the November 21, 2001, NRC letter to WCS (ADAMS Accession No. ML030130085), the conditions specified in the 2001 Order are discussed in the October 2001 Environmental Assessment (EA) and November 2001 Safety Evaluation Report (SER) that supported the 2001 Order.

By letters dated August 6, 2003, and March 14, 2004, WCS requested a modification to the 2001 Order, which would allow it to use additional reagents for chemical stabilization of mixed waste containing SNM. The NRC issued the new Order on November 4, 2004 (2004 Order), which superseded the 2001 Order. The 2004 Order was published in the **Federal Register** on November 12, 2004 (69 FR 65468). The new conditions specified in the 2004 Order are discussed in the October 2004 EA (ADAMS Accession No. ML043020614) and SER (ADAMS Accession No. ML042250362) that supported the 2004 Order. The 2004 Order changed the 2001 Order Conditions to allow WCS to use such chemical reagents as it deems necessary for treatment and stabilization of mixed waste containing SNM, provided that the SNM mass does not exceed specified concentration limits.

By letter dated December 10, 2007, WCS requested additional modifications to the 2004 Order. The NRC issued the new Order to WCS on October 20, 2009 (2009 Order), which superseded the 2004 Order. The 2009 Order was published in the **Federal Register** on October 26, 2009 (74 FR 55072). The new conditions specified in the 2009 Order are discussed in the October 2009 EA (ADAMS Accession No. ML092460509) and SER (ADAMS Accession No. ML093070307) that supported the 2009 Order. The 2009 Order changed the 2004 Order Conditions regarding sampling of waste, what is allowed to be in the waste, and the amount of highly water soluble SNM in each waste package.

In July 2013, by Amendment No. 22 of RML R04100, the TCEQ began to merge the license requirements in RML R04971 (for the radioactive waste treatment, storage, and processing facility) with the requirements in RML R04100 (for the LLW land disposal facility). In Amendment No. 22 of RML R04100, the TCEQ license requirements related to the NRC 2009 Order in RML R04971 for the WCS treatment, storage, and processing facility were transferred to RML R04100. Previous Orders referred to that location as the treatment, storage, and processing facility. Subsequently, WCS began referring to that location as the ''Treatment, Storage and Disposal Facility.'' The NRC will use the name ''Treatment, Storage, and Disposal Facility'' and the abbreviation TSDF to reference that location in this Order.

The previous NRC Orders (2001, 2004, and 2009) addressed the issue that 10 CFR 70.3 requires persons who own, acquire, deliver, receive, possess, use, or transfer SNM to obtain an NRC license pursuant to the requirements in 10 CFR part 70. However, 10 CFR 150.10 exempts a person in an Agreement State who possesses SNM in quantities not sufficient to form a critical mass from the NRC's imposed licensing requirements and regulations. The method for calculating the quantity of SNM not sufficient to form a critical mass is set out in 10 CFR 150.11. Therefore, prior to the NRC 2001 Order, WCS was required to comply with NRC regulatory requirements and obtain an NRC specific license to possess SNM in quantities greater than amounts established in 10 CFR 150.11. The 2001 WCS exemption request to NRC proposed to use concentration-based limits rather than mass-based limits at a specific location at the WCS facility. The NRC 2001 Order granted, and the subsequent NRC Orders (2004 and 2009) continued, the use of concentration-based limits with conditions at a specific location at the WCS facility. The TCEQ incorporated the concentration-based limits and conditions from each respective NRC Order (2001, 2004, and 2009) into the WCS license for the specific location at the WCS facility where the concentration-based limits instead of mass-based limits are applicable.

By letter dated July 18, 2014 (ADAMS Accession No. ML14209A660), WCS requested an exemption from NRC regulations to possess SNM in excess of

the critical mass limits specified in 10 CFR 150.11 while temporarily storing specific waste at a different location at the WCS facility other than the TSDF. The WCS exemption request referenced the WCS June 20, 2014, letter to the NRC (ADAMS Accession No. ML14171A554) that notified the NRC of actions that WCS had taken in response to the on-going U.S. Department of Energy (DOE) investigation of an unplanned radiation release event at the DOE Waste Isolation Pilot Plant (WIPP) facility (*i.e.,* the WIPP incident). The specific waste includes some of the transuranic waste that originated at the DOE Los Alamos National Laboratory (LANL), which are destined to be disposed of at the DOE WIPP facility (*i.e.,* LANL waste). Due to the February 14, 2014, WIPP incident, the DOE suspended operations at the WIPP facility. In April 2014, WCS began receiving some of the LANL waste from DOE, which met the conditions in the NRC 2009 Order. WCS intended to temporarily store the LANL waste at the TSDF at the WCS facility until WCS ships the waste.

Based on the DOE investigation of the WIPP incident, DOE subsequently informed WCS that some of the LANL waste being temporarily stored at the WCS TSDF could, under certain conditions, react and potentially result in a release of transuranic radionuclides to the environment. On June 12, 2014, WCS responded to DOE's information by starting to voluntarily move the identified LANL waste to the Federal Waste Disposal Facility (FWF) at the WCS facility for temporary storage.

After evaluating WCS's exemption request, the NRC staff decided that the appropriate action is to grant the request, contingent on compliance with the additional conditions contained in the 2014 Order. The reasons for this decision are further described in the SER for this request (ADAMS Accession No. ML14230A804).

II. Conditions

Currently, WCS is exempted from the requirements of 10 CFR part 70, including the requirements for an NRC license in 10 CFR 70.3. This Order supersedes the 2009 Order that applies to the WCS treatment, storage and processing facility. Previous Orders referred to that location as the treatment, storage, and processing facility. Subsequently, WCS began referring to that location as the ''Treatment, Storage and Disposal Facility.'' The NRC will use the name ''Treatment, Storage, and Disposal Facility'' and the abbreviation TSDF to reference that location in the 2014 Order.

The NRC reviewed the information in the WCS request and, along with clarifying teleconference calls and other public and non-public information provided by WCS, the NRC decided that the appropriate action is to grant the WCS exemption request, but has modified WCS' exemption request to include additional conditions which are reflected in this 2014 Order. As described in the SER Report for this request, the NRC has determined that the modified conditions in the 2014 Order will not endanger life or property or the common defense and security and is otherwise in the public interest to allow for movement and the temporary storage of the identified LANL waste at WCS FWF.

Conditions 1 through 7 remain the same as in the 2009 Order. A new Condition 8 was created in this 2014 Order to address the NRC's modification of WCS' exemption request. The new Condition 8 applies to the LANL waste stored at either the TSDF or the FWF. Condition 8 in the 2009 Order was renumbered as Condition 9 in this 2014 Order. Condition 9 in the 2009 Order is renumbered as Condition 10 in this 2014 Order. A new Condition 11 was created in this 2014 Order. As such, Conditions 1 through 11 of this 2014 Order now read as the following:

1. Concentrations of SNM in individual waste containers and/or during processing shall not exceed the following values:

SNM isotope	Operational limit (gram SNM/ gram waste)	Measurement uncertainty (gram SNM/ gram waste)
U-233	4.7E–04	7.1E–05
U-235 (10 percent enriched)	9.9E–04	1.5E–04
U-235 (100 percent enriched)	6.2E–04	9.3E–05
Pu-239	2.8E–04	4.2E–05
Pu-241	2.2E–04	3.2E–05

When mixtures of these SNM isotopes are present in the waste, the sum-of-the-fractions rule, as illustrated below, shall be used.

$$\frac{\text{U-233 conc}}{\text{U-233 limit}} + \frac{\text{100wt\%U-235 conc}}{\text{100wt\%U-235 limit}} + \frac{\text{10wt\%U-235 conc}}{\text{10wt\%U-235 limit}} + \frac{\text{Pu-239 conc}}{\text{Pu-239 limit}} + \frac{\text{Pu-241 conc}}{\text{Pu-241 limit}} \leq 1$$

The measurement uncertainty values in column 3 above represent the maximum one-sigma uncertainty associated with the measurement of the concentration of the particular radionuclide.

The SNM must be uniformly distributed throughout the waste, such that the limiting concentrations must not be exceeded on average in any contiguous mass of 600 kilograms.

2. The mass concentration of carbon, fluorine, and bismuth in the waste must be limited as follows:

SNM isotope	Carbon wt %	Fluorine wt %	Bismuth wt %
U-233	28	34	34
U-235(10)	25	35	31
U-235(100)	41	42	33
Pu-239	43	43	34
Pu-241	37	39	32

For waste containing mixtures of C, F, and Bi, the sum of the weight fractions of C, F, and Bi shall be compared to the most restrictive maximum allowable weight fractions for any one of those elements. Similarly, where mixtures of radionuclides are present in the waste, the limiting maximum allowable weight fraction of C, F, and Bi shall be applied. The presence of the above materials will be determined and documented by the

generator, based on process knowledge or testing.

3. Waste accepted shall not contain total quantities of beryllium, hydrogenous material enriched in deuterium, or graphite above one tenth of one percent of the total weight of the waste. The presence of the above materials will be determined and documented by the generator, based on process knowledge, or testing.

4. Possession of highly water soluble forms of SNM shall not exceed the amount of SNM of low strategic significance defined in 10 CFR 73.2. Highly soluble forms of SNM include, but are not limited to: Uranium sulfate, uranyl acetate, uranyl chloride, uranyl formate, uranyl fluoride, uranyl nitrate, uranyl potassium carbonate, uranyl sulfate, plutonium chloride, plutonium fluoride, and plutonium nitrate. The presence of the above materials will be determined and documented by the generator, based on process knowledge or testing.

5. Processing of mixed waste containing SNM will be limited to chemical stabilization (*i.e.,* mixing waste with reagents). For batches with more than 600 kilograms of waste, the total mass of SNM shall not exceed the concentration limits in Condition 1 times 600 kilograms of waste.

6. Prior to shipment of waste, WCS shall require generators to provide a written certification containing the following information for each waste stream:

a. Waste Description. The description must detail how the waste was generated, list the physical forms in the waste, and identify uranium chemical composition.

Waste Characterization Summary. The data must include a general description of how the waste was characterized (including the volumetric extent of the waste, and the number, location, type, and results of any analytical testing), the range of SNM concentrations, and the analytical results with error values used to develop the concentration ranges.

b. Uniformity Description. A description of the process by which the waste was generated showing that the spatial distribution of SNM is homogeneous or other information supporting spatial homogeneity.

c. Manifest Concentration. The generator must describe the methods to be used to determine the concentrations on the manifests. These methods could include direct measurement and the use of scaling factors. The generator must describe the uncertainty associated with sampling and testing used to obtain the manifest concentrations.

WCS shall review the above information and, if adequate, approve in writing this pre-shipment waste characterization and assurance plan before permitting the shipment of a waste stream. This will include statements that WCS has a written copy of all the information required above, that the characterization information is adequate and consistent with the waste description, and that the information is sufficient to demonstrate compliance with Conditions 1 through 4. Where generator process knowledge is used to demonstrate compliance with Conditions 1, 2, 3, or 4, WCS shall review this information and determine when testing is required to provide additional information in assuring compliance with the Conditions. WCS shall retain this information as required by the State of Texas to permit independent review.

At the time waste is received, WCS shall require generators of SNM waste to provide a written certification with each waste manifest that states that the SNM concentrations reported on the manifest do not exceed the limits in Condition 1, and that the waste meets Conditions 2 through 4.

WCS shall require generators to sample and determine the SNM concentration for each waste stream, not to include sealed sources, at a frequency of once per 600 kg if the concentrations are above one tenth the SNM limits of Condition 1. The measurement uncertainty shall not exceed the uncertainty value in Condition 1 and shall be provided on the written certification.

7. WCS shall sample and determine the SNM concentration for each waste stream, not to include sealed sources, at a frequency of once per 600 kg if the concentrations are above one tenth the SNM limits of Condition 1. This confirmatory testing is not required for waste to be disposed of at DOE's WIPP facility.

8. The ''WIPP incident'' is the February 14, 2014, unplanned radiation release event at the DOE WIPP facility in New Mexico. The following relate to WCS storing DOE transuranic waste that originated at the LANL, which are destined to be disposed of at the DOE WIPP facility (*i.e.,* ''LANL waste''), at either the WCS Treatment, Storage, and Disposal Facility (TSDF) or the WCS Federal Waste Disposal Facility (FWF):

A. *The following conditions are applicable to LANL waste stored at the Federal Waste Disposal Facility (FWF) and other SNM bearing waste stored or disposed of at the FWF:*

1. The following waste is allowed to be stored at the WCS FWF: LANL waste in accordance with the concentration-based limits specified in Conditions 1 through 7, provided that it is in Standardized Waste Boxes (SWBs) analyzed to be safe in the DOE ''Nuclear Critical Safety Evaluation,'' WIPP–016, Rev. 4. The lids of the SWBs shall be bolted or similarly secured to the body and the SWBs shall be placed inside Modular Concrete Canisters (MCCs) consistent with the configurations analyzed in WIPP–016.

2. The LANL waste shall be isolated from other SNM-bearing waste by a minimum of 6.096 meters (20 feet).

3. The LANL waste in MCCs shall be stacked no more than one MCC high.

B. *The following conditions are applicable to all the LANL waste stored at either the TSDF or the FWF:*

1. WCS shall follow the general reporting and recordkeeping requirements of 10 CFR part 73 that are applicable to those who possess SNM of 1 gram or more. Those requirements are:

(1) Notification to the NRC within 1 hour of discovery of any unauthorized removal of SNM which WCS is authorized to possess; and

(2) maintenance of a recordkeeping program showing the receipt, inventory, acquisition, transfer, and disposal of all SNM in WCS' possession.

2. The contents and matrices of the LANL waste in the inner containers shall conform to the description in the WCS non-public information.

3. The physical security plan for the LANL waste shall be maintained to specifically include detection, assessment, and response methods and procedures for the LANL waste for as long as the LANL waste is at the WCS facility.

4. WCS is allowed to possess the LANL waste for a maximum of 2 years.

5. The LANL waste shall remain unopened in the inner container in which it was shipped, unless WCS needs to take an action on one of the inner containers based on knowledge from DOE's investigation of the WIPP incident. Only one inner container may be open at a time.

6. WCS shall keep NRC informed of the status of the DOE investigation of the WIPP incident. If DOE determines that some of LANL waste at WCS was similar to the waste that DOE determines to have contributed to the WIPP incident, then WCS will notify the NRC.

9. WCS shall notify the NRC, Region IV office within 24 hours if any of the above Conditions are violated. A written notification of the event must be provided within 7 days.

10. WCS shall obtain NRC's approval prior to changing any activities associated with the above Conditions.

11. The Director of the Office of Nuclear Material Safety and Safeguards (or designee), may, in writing, relax or rescind any of the above conditions upon demonstration by WCS of good cause.

III. Conclusion

Based on the staff's evaluation, the NRC has determined, pursuant to 10 CFR 70.17(a), that the exemption as described above at the WCS facility is authorized by law, will not endanger life or property or the common defense and security and is otherwise in the public interest. Accordingly, by this Order, the NRC hereby grants this exemption subject to the conditions in this Order, which implements concentration-based limits for SNM quantities not sufficient to form a critical mass at specific locations at the WCS facility. This NRC Order is effective and final 20 days after issuance of the Order without further order or proceedings. This NRC's Order enables the State of Texas to regulate SNM materials at the WCS facility under the State's radiation protection program as long as WCS complies with this Order.

Pursuant to the requirements in 10 CFR part 51, the Commission has published an Environmental Assessment for the proposed action wherein it has determined that the granting of this exemption will have no significant impacts on the quality of the human environment. That finding was noticed in the **Federal Register** on November 6, 2014 (79 FR 65999).

Dated at Rockville, Maryland, this 3rd day December 2014.

For the Nuclear Regulatory Commission.

Catherine Haney,

Director, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 2014–29129 Filed 12–10–14; 8:45 am]

BILLING CODE 7590–01–P

POSTAL REGULATORY COMMISSION

[Docket Nos. CP2015–18; Order No. 2275]

New Postal Product

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recent Postal Service filing concerning an additional Foreign Postal Operators 1 negotiated service agreement with Royal PostNL BV. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* December 12, 2014.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov*. Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION:

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I. Introduction
II. Notice of Commission Action
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I. Introduction

On December 4, 2014, the Postal Service filed notice that it has entered into an additional Foreign Postal Operators 1 negotiated service agreement (Agreement).[1]

To support its Notice, the Postal Service filed a copy of the Agreement, a copy of the Governors' Decision authorizing the product, a certification of compliance with 39 U.S.C. 3633(a), and an application for non-public treatment of certain materials. It also filed supporting financial workpapers.

II. Notice of Commission Action

The Commission establishes Docket No. CP2015–18 for consideration of matters raised by the Notice.

The Commission invites comments on whether the Postal Service's filing is consistent with 39 U.S.C. 3632, 3633, or 3642, 39 CFR part 3015, and 39 CFR part 3020, subpart B. Comments are due no later than December 12, 2014. The public portions of the filing can be accessed via the Commission's Web site (*http://www.prc.gov*).

The Commission appoints James F. Callow to serve as Public Representative in this docket.

III. Ordering Paragraphs

It is ordered:

1. The Commission establishes Docket No. CP2015–18 for consideration of the matters raised by the Postal Service's Notice.

2. Pursuant to 39 U.S.C. 505, James F. Callow is appointed to serve as an officer of the Commission to represent the interests of the general public in this proceeding (Public Representative).

3. Comments are due no later than December 12, 2014.

4. The Secretary shall arrange for publication of this order in the **Federal Register**.

By the Commission.

Ruth Ann Abrams,

Acting Secretary.

[FR Doc. 2014–29028 Filed 12–10–14; 8:45 am]

BILLING CODE 7710–FW–P

[1] United States Postal Service Notice of Filing Functionally Equivalent Inbound Competitive Multi-Service Agreement with Royal PostNL BV and Application for Non-Public Treatment of Materials Filed Under Seal, December 4, 2014 (Notice).

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission Advisory Committee on Small and Emerging Companies will hold a public meeting on Wednesday, December 17, in Multi-Purpose Room LL–006 at the Commission's headquarters, 100 F Street NE., Washington, DC.

The meeting will begin at 9:30 a.m. (EDT) and will be open to the public. Seating will be on a first-come, first-served basis. Doors will open at 9:00 a.m. Visitors will be subject to security checks. The meeting will be webcast on the Commission's Web site at *www.sec.gov.*

On December 3, 2014 the Commission published notice of the Committee meeting (Release No. 33–9683), indicating that the meeting is open to the public and inviting the public to submit written comments to the Committee. This Sunshine Act notice is being issued because a majority of the Commission may attend the meeting.

The agenda for the meeting includes matters relating to rules and regulations affecting small and emerging companies under the federal securities laws.

For further information, please contact the Office of the Secretary at (202) 551–5400.

Dated: December 8, 2014.

Brent J. Fields,

Secretary.

[FR Doc. 2014–29183 Filed 12–9–14; 4:15 pm]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–73756; File No. SR–ISEGemini–2014–29]

Self-Regulatory Organizations; ISE Gemini, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Extend the Penny Pilot Program

December 5, 2014.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Exchange Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on December 1, 2014, ISE Gemini, LLC (the ''Exchange'' or ''ISE Gemini'') filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

ISE Gemini proposes to amend its rules relating to a pilot program to quote and to trade certain options in pennies (''Penny Pilot Program''). The text of the proposed rule change is available on the Exchange's Web site *www.ise.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections A, B and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Under the Penny Pilot Program, the minimum price variation for all participating options classes, except for the Nasdaq-100 Index Tracking Stock (''QQQQ''), the SPDR S&P 500 Exchange Traded Fund (''SPY'') and the iShares Russell 2000 Index Fund (''IWM''), is $0.01 for all quotations in options series that are quoted at less than $3 per contract and $0.05 for all quotations in options series that are quoted at $3 per contract or greater. QQQQ, SPY and IWM are quoted in $0.01 increments for all options series. The Penny Pilot Program is currently scheduled to expire on December 31, 2014.[3] The Exchange proposes to extend the time period of the Penny Pilot Program through June 30, 2015, and to provide revised dates for adding replacement issues to the Penny Pilot Program. The Exchange proposes that any Penny Pilot Program issues that have been delisted may be replaced on the second trading day following January 1, 2015. The replacement issues will be selected based on trading activity for the six month period beginning June 1, 2014, and ending November 30, 2014. This filing does not propose any substantive changes to the Penny Pilot Program: All classes currently participating will remain the same and all minimum increments will remain unchanged. The Exchange believes the benefits to public customers and other market participants who will be able to express their true prices to buy and sell options have been demonstrated to outweigh the increase in quote traffic.

2. Statutory Basis

The basis under the Securities Exchange Act of 1934 (the ''Exchange Act'') for this proposed rule change is found in Section 6(b)(5), in that the proposed rule change is designed to promote just and equitable principles of trade, remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest. In particular, the proposed rule change, which extends the Penny Pilot Program for an additional six months, will enable public customers and other market participants to express their true prices to buy and sell options for the benefit of all market participants.

B. Self-Regulatory Organization's Statement on Burden on Competition

This proposed rule change does not impose any burden on competition. Specifically, the Exchange believes that, by extending the expiration of the Penny Pilot Program, the proposed rule change will allow for further analysis of the Penny Pilot Program and a determination of how the Penny Pilot Program should be structured in the future. In doing so, the proposed rule change will also serve to promote regulatory clarity and consistency, thereby reducing burdens on the marketplace and facilitating investor protection.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any written comments from members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not significantly affect the protection of investors or the public interest, does not impose any significant burden on competition, and, by its terms, does not become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act[4] and Rule 19b–4(f)(6) thereunder.[5] The Exchange provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing the proposed rule change as required by Rule 19b–4(f)(6).

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Exchange 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 Exchange Act. Comments may be submitted by any of the following methods:

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Exchange Act Release No. 72278 (May 29, 2014), 79 FR 32353 (June 4, 2014) (SR–ISE Gemini–2014–14).

[4] 15 U.S.C. 78s(b)(3)(A).

[5] 17 CFR 240.19b–4(f)(6).

Electronic Comments

- Use the Commission's Internet comment form *http://www.sec.gov/rules/sro.shtml*); or
- Send an Email to *rule-comments@sec.gov.* Please include File No. SR–ISE Gemini–2014–29 *on the subject line.*

Paper Comments

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–ISE Gemini–2014–29. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commissions Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of Topaz. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–ISE Gemini–2014–29 and should be submitted by January 2, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[6]

Brent J. Fields,

Secretary.

[FR Doc. 2014–29011 Filed 12–10–14; 8:45 am]

BILLING CODE 8011–01–P

[6] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–73761; File No. SR–EDGA–2014–29]

Self-Regulatory Organizations; EDGA Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Eliminate Reference to the EdgeRisk Gateway in Rule 13.10 of EDGA Exchange, Inc.

December 5, 2014.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on November 25, 2014, EDGA Exchange, Inc. (the ''Exchange'' or ''EDGA'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange has designated this proposal as a ''non-controversial'' proposed rule change pursuant to Section 19(b)(3)(A) of the Act[3] and Rule 19b–4(f)(6)(iii) thereunder,[4] which renders it effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is proposing to eliminate reference in Rule 13.10 to the EdgeRisk Gateway℠, which is a risk management tool that is to be discontinued by the Exchange. The Exchange also proposes to delete the fees related to EdgeRisk Gateway℠ from its fee schedule.

The text of the proposed rule change is available at the Exchange's Web site at *http://www.directedge.com/,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to delete reference to the EdgeRisk Gateway℠ in Rule 13.10 as well as its related fees from the Exchange's fee schedule. In sum, the EdgeRisk Gateway℠ is an optional fee-based risk management tool that provides Members and non-Members the option to obtain dedicated primary and backup access gateways[5] in addition to, or in place of, a shared access gateway.[6] The tool was intended to assist subscribers' efforts to mitigate the risks associated with disruptions caused by excessive message traffic or programming mistakes experienced via a shared access gateway because the subscriber's order flow on its dedicated access gateways would be insulated from such external disruptions.

Earlier this year, the Exchange and its affiliate EDGX Exchange, Inc. (''EDGX'') received approval to effect a merger (the ''Merger'') of the Exchange's parent company, Direct Edge Holdings LLC, with BATS Global Markets, Inc., the parent of BATS Exchange, Inc. (''BATS'') and BATS Y-Exchange, Inc. (''BYX'', together with BATS, BYX, EDGA and EDGX, the ''BGM Affiliated Exchanges'').[7] In the context of the Merger, the BGM Affiliated Exchanges are assessing certain system functionality, retaining only intended

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(6)(iii).

[5] The Exchange currently offers logical ports through which order are submitted to the Exchange, receive drop copies of orders and execution messages, and receive transmission of depth of book data (''Logical Ports''). Each Logical Port is assigned an access gateway that performs order validations and manages the cycle of a submitted order's flow of information back to the Member. The access gateway performs functions such as message validation, acknowledgement messaging, risk checks, matching engine routing and execution messaging. The Exchange currently assigns Members' and non-Members' Logical Ports to the access gateways through a standard method that accounts for the relative message traffic expected over the Logical Port as well as redundancy requirements, where an access gateway contains assigned Logical Ports for a number of firms. The Exchange assigns Member and non-Member sessions to multiple access gateways so that the failure of one gateway may not result in the loss of access.

[6] *See* Securities Exchange Act Release No. 69856 (June 25, 2013), 78 FR 39395 (SR–EDGA–2013–16) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Offer and Establish Fees for a New Exchange Service, EdgeRisk Gateways).

[7] *See* Securities Exchange Act Release No. 71449 (January 30, 2014), 79 FR 6961 (February 5, 2014) (SR–EDGX–2013–43; SR–EDGA–2013–34).

differences between the BGM Affiliated Exchanges. As part of this effort, the Exchange proposes to: Delete reference to EdgeRisk Gateway[SM] in Rule 13.10 as well as its related fees from the Exchange's fee schedule because it intends to discontinue offering this product. Therefore, reference to the product within Exchange's rules and applicable fees in its fee schedule would no longer serve any legitimate purpose upon the product being retired by the Exchange. The Exchange has few subscribers to the EdgeRisk Gateway[SM] and has determined that the current customer demand does not warrant the infrastructure and ongoing maintenance expense required to support the product within the new Exchange environment. Therefore, the Exchange will terminate the product on January 12, 2015.

2. Statutory Basis

The Exchange believes that its proposal is consistent with the requirements of Section 6(b) of the Act,[8] in general, and Section 6(b)(5) of the Act,[9] in particular, in that is promotes just and equitable principles of trade, removes impediments to, and perfect the mechanism of, a free and open market and a national market system, and, in general, protects investors and the public interest. The Exchange also believes that its proposal is consistent with Section 6(b)(4) of the Act,[10] in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and other persons using its facilities.

Specifically, the proposal is consistent with Section 6(b)(5) of the Act,[11] in that it eliminates any investor confusion by deleting references to a product, and its related fees, that is to be discontinued by the Exchange, thereby removing impediments to and perfecting the mechanism of a free and open market and a national market system, and, in general, protecting investors and the public interest. In addition, the Exchange has very few subscribers to EdgeRisk GatewaySM and has determined that the current customer demand does not warrant the infrastructure and ongoing maintenance expense required to support the product within the new Exchange environment. In addition, EdgeRisk GatewaySM is not a core product offering by the Exchange, nor is the Exchange required by the Act to offer such a product. The proposed rule change will not permit unfair discrimination among customers, brokers, or dealers because the EdgeRisk GatewaySM will no longer be offered by the Exchange.

In addition, the Exchange believes that the proposed removal of the fees for the EdgeRisk Gateway[SM] from its fee schedule is consistent with Section 6(b)(4) of the Act[12] because it would delete fees for a product that is to be discontinued by the Exchange, thereby eliminating investor confusion. Lastly, the Exchange also believes that the proposed amendment to its fee schedule is reasonable and non-discriminatory because it will apply uniformly to all members.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes the proposal is consistent with Section 6(b)(8) of the Act[13] in that it does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change will discontinue ConenctEdge [sic] by removing references to the service from its rules, and its related fees from the fee schedule, and is not designed to have a competitive impact. Therefore, the Exchange does not believe the proposed rule change will have any effect on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the proposed rule change does not: (1) Significantly affect the protection of investors or the public interest; (2) impose any significant burden on competition; and (3) by its terms does not become operative for 30 days after the date of this filing, 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[14] and Rule 19b–4(f)(6) thereunder.[15]

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml);* or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–EDGA–2014–29 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–EDGA–2014–29. 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

[8] 15 U.S.C. 78f(b).

[9] 15 U.S.C. 78f(b)(5).

[10] 15 U.S.C. 78f(b)(4).

[11] 15 U.S.C. 78f(b)(5).

[12] 15 U.S.C. 78f(b)(4).

[13] 15 U.S.C. 78f(b)(8).

[14] 15 U.S.C. 78s(b)(3)(A).

[15] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires a self-regulatory organization to provide the Commission with written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has met this requirement.

submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–EDGA–2014–29 and should be submitted on or before January 2, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[16]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–29007 Filed 12–10–14; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–73752; File No. SR–CME–2014–55]

Self-Regulatory Organizations; Chicago Mercantile Exchange Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the Fee Schedule Applicable to Its OTC Credit Default Swap Clearing Offering

December 5, 2014.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder[2] notice is hereby given that, on December 1, 2014, Chicago Mercantile Exchange Inc. (''CME'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared primarily by CME. CME filed the proposal pursuant to Section 19(b)(3)(A)(ii) of the Act,[3] and Rule 19b–4(f)(2)[4] thereunder, so that the proposal was effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

CME is proposing to amend the fee schedule that currently applies to its OTC Credit Default Swap (''CDS'') index clearing offering. The text of the proposed rule change is available on CME's Web site at *http://www.cmegroup.com,* at the principal office of CME, 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, CME included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. CME has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of these statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

CME is registered as a derivatives clearing organization with the Commodity Futures Trading Commission (''CFTC'') and currently offers clearing services for many different futures and swaps products. With this filing, CME proposes to make certain amendments to the current fee schedule that applies to its OTC CDS index clearing offering. The changes described in this filing are limited to products that fall under the exclusive jurisdiction of the CFTC.

The first set of proposed modifications specifies the fees that will apply to iTraxx Index Products that will be cleared by CME once the product is made available for clearing. This is scheduled to occur on December 8, 2014 or whenever applicable regulatory approvals are obtained. In general, iTraxx products will have the same fee schedule as the similar North American CDX products that CME currently clears, but will be charged in Euros as opposed to U.S. Dollars. Additionally, the proposed modifications will also feature a temporary discount on these products to all clients.

The second set of proposed modifications relate to the volume-based tiers that are currently offered in connection with CME's North American CDX index product offering. These proposed modifications would lower certain of the current tier thresholds. These changes would become operational on January 1, 2015.

The proposed fee changes are limited to CME's business as a derivatives clearing organization clearing products and do not impact security-based swaps in any way. CME has also certified the proposed rule changes that are the subject of this filing to the CFTC in CFTC Submission 14–441.

CME believes the proposed rule change is consistent with the requirements of the Act including Section 17A of the Act.[5] More specifically, the proposed rule change establishes or changes a member due, fee or other charge imposed by CME under Section 19(b)(3)(A)(ii)[6] of the Act and Rule 19b–4(f)(2)[7] thereunder. CME believes that the proposed fee change is consistent with the requirements of the Act and the rules and regulations thereunder and, in particular, to Section 17A(b)(3)(D) of the Act,[8] because the proposed fee changes apply equally to all market participants clearing covered products and therefore the proposed changes provide for the equitable allocation of reasonable dues, fees and other charges among participants. CME also notes that it operates in a highly competitive market in which market participants can readily direct business to competing venues. As such, the proposed changes are appropriately filed pursuant to Section 19(b)(3)(A)(ii)[9] of the Act and Rule 19b–4(f)(2)[10] thereunder.

B. Self-Regulatory Organization's Statement on Burden on Competition

CME does not believe that the proposed rule change will have any impact, or impose any burden, on competition. The proposed modifications will introduce pricing for a new OTC CDS index swap offering and will make minor modifications to the pricing schedules for current OTC CDS index clearing offerings. These products are swaps under the exclusive jurisdiction of the CFTC, and, as such, these proposed changes do not affect the security-based swap clearing activities of CME in any way and therefore do not impose any burden on competition that is inappropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

CME has not solicited, and does not intend to solicit, comments regarding this proposed rule change. CME has not received any unsolicited written comments from interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective upon filing pursuant to Section

[16] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(ii).

[4] 17 CFR 240.19b–4(f)(2).

[5] 15 U.S.C. 78q–1.

[6] 15 U.S.C. 78s(b)(3)(A)(ii).

[7] 17 CFR 240.19b–4(f)(2).

[8] 15 U.S.C. 78q–1(b)(3)(D).

[9] 15 U.S.C. 78s(b)(3)(A)(ii).

[10] 17 CFR 240.19b–4(f)(2).

19(b)(3)(A)(ii)[11] of the Act and Rule 19b–4(f)(2)[12] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–CME–2014–55 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–CME–2014–55. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filings will also be available for inspection and copying at the principal office of CME and on CME's Web site at *http://www.cmegroup.com/market-regulation/rule-filings.html.*

All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CME–2014–55 and should be submitted on or before January 2, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[13]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–29003 Filed 12–10–14; 8:45 am]

BILLING CODE 8011–01–P

[11] 15 U.S.C. 78s(b)(3)(A)(ii).

[12] 17 CFR 240.19b–4(f)(2).

[13] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–73760; File No. SR–EDGX–2014–29]

Self-Regulatory Organizations; EDGX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Eliminate Reference to the EdgeRisk Gateway in Rule 13.10 of EDGX Exchange, Inc.

December 5, 2014.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on November 25, 2014, EDGX Exchange, Inc. (the ''Exchange'' or ''EDGX'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange has designated this proposal as a ''non-controversial'' proposed rule change pursuant to Section 19(b)(3)(A) of the Act[3] and Rule 19b–4(f)(6)(iii) thereunder,[4] which renders it effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is proposing to eliminate reference in Rule 13.10 to the EdgeRisk Gateway℠, which is a risk management tool that is to be discontinued by the Exchange. The Exchange also proposes to delete the fees related to EdgeRisk Gateway℠ from its fee schedule.

The text of the proposed rule change is available at the Exchange's Web site at *http://www.directedge.com/,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to delete reference to the EdgeRisk Gateway℠ in Rule 13.10 as well as its related fees from the Exchange's fee schedule. In sum, the EdgeRisk Gateway℠ is an optional fee-based risk management tool that provides Members and non-Members the option to obtain dedicated primary and backup access gateways[5] in addition to, or in place of, a shared access gateway.[6] The tool was intended to assist subscribers' efforts to mitigate the risks associated with disruptions caused by excessive message traffic or programming mistakes experienced via

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(6)(iii).

[5] The Exchange currently offers logical ports through which orders are submitted to the Exchange, receive drop copies of orders and execution messages, and receive transmission of depth of book data (''Logical Ports''). Each Logical Port is assigned an access gateway that performs order validations and manages the cycle of a submitted order's flow of information back to the Member. The access gateway performs functions such as message validation, acknowledgement messaging, risk checks, matching engine routing and execution messaging. The Exchange currently assigns Members' and non-Members' Logical Ports to the access gateways through a standard method that accounts for the relative message traffic expected over the Logical Port as well as redundancy requirements, where an access gateway contains assigned Logical Ports for a number of firms. The Exchange assigns Member and non-Member sessions to multiple access gateways so that the failure of one gateway may not result in the loss of access.

[6] *See* Securities Exchange Act Release No. 69855 (June 25, 2013), 78 FR 39386 (SR–EDGX–2013–21) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Offer and Establish Fees for a New Exchange Service, EdgeRisk Gateways).

a shared access gateway because the subscriber's order flow on its dedicated access gateways would be insulated from such external disruptions.

Earlier this year, the Exchange and its affiliate EDGA Exchange, Inc. (''EDGA'') received approval to effect a merger (the ''Merger'') of the Exchange's parent company, Direct Edge Holdings LLC, with BATS Global Markets, Inc., the parent of BATS Exchange, Inc. (''BATS'') and BATS Y-Exchange, Inc. (''BYX'', together with BATS, BYX, EDGA and EDGX, the ''BGM Affiliated Exchanges'').[7] In the context of the Merger, the BGM Affiliated Exchanges are assessing certain system functionality, retaining only intended differences between the BGM Affiliated Exchanges. As part of this effort, the Exchange proposes to: delete reference to EdgeRisk Gateway℠ in Rule 13.10 as well as its related fees from the Exchange's fee schedule because it intends to discontinue offering this product. Therefore, reference to the product within Exchange's rules and applicable fees in its fee schedule would no longer serve any legitimate purpose upon the product being retired by the Exchange. The Exchange has few subscribers to the EdgeRisk Gateway℠ and has determined that the current customer demand does not warrant the infrastructure and ongoing maintenance expense required to support the product within the new Exchange environment. Therefore, the Exchange will terminate the product on January 12, 2015.

2. Statutory Basis

The Exchange believes that its proposal is consistent with the requirements of Section 6(b) of the Act,[8] in general, and Section 6(b)(5) of the Act,[9] in particular, in that is promotes just and equitable principles of trade, removes impediments to, and perfects the mechanism of, a free and open market and a national market system, and, in general, protects investors and the public interest. The Exchange also believes that its proposal is consistent with Section 6(b)(4) of the Act,[10] in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and other persons using its facilities.

Specifically, the proposal is consistent with Section 6(b)(5) of the Act,[11] in that it eliminates any investor confusion by deleting references to a product, and its related fees, that is to be discontinued by the Exchange, thereby removing impediments to and perfecting the mechanism of a free and open market and a national market system, and, in general, protecting investors and the public interest. In addition, the Exchange has very few subscribers to EdgeRisk Gateway℠ and has determined that the current customer demand does not warrant the infrastructure and ongoing maintenance expense required to support the product within the new Exchange environment. In addition, EdgeRisk Gateway℠ is not a core product offering by the Exchange, nor is the Exchange required by the Act to offer such a product. The proposed rule change will not permit unfair discrimination among customers, brokers, or dealers because the EdgeRisk Gateway℠ will no longer be offered by the Exchange.

In addition, the Exchange believes that the proposed removal of the fees for the EdgeRisk Gateway℠ from its fee schedule is consistent with Section 6(b)(4) of the Act[12] because it would delete fees for a product that is to be discontinued by the Exchange, thereby eliminating investor confusion. Lastly, the Exchange also believes that the proposed amendment to its fee schedule is reasonable and non-discriminatory because it will apply uniformly to all members.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes the proposal is consistent with Section 6(b)(8) of the Act[13] in that it does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change will discontinue ConenctEdge [sic] by removing references to the service from its rules, and its related fees from the fee schedule, and is not designed to have a competitive impact. Therefore, the Exchange does not believe the proposed rule change will have any effect on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the proposed rule change does not: (1) Significantly affect the protection of investors or the public interest; (2) impose any significant burden on competition; and (3) by its terms does not become operative for 30 days after the date of this filing, 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[14] and Rule 19b–4(f)(6) thereunder.[15]

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest; for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–EDGX–2014–29 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–EDGX–2014–29. 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

[7] *See* Securities Exchange Act Release No. 71449 (January 30, 2014), 79 FR 6961 (February 5, 2014) (SR–EDGX–2013–43; SR–EDGA–2013–34).

[8] 15 U.S.C. 78f(b).

[9] 15 U.S.C. 78f(b)(5).

[10] 15 U.S.C. 78f(b)(4).

[11] 15 U.S.C. 78f(b)(5).

[12] 15 U.S.C. 78f(b)(4).

[13] 15 U.S.C. 78f(b)(8).

[14] 15 U.S.C. 78s(b)(3)(A).

[15] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires a self-regulatory organization to provide the Commission with written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has met this requirement.

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–EDGX–2014–29, and should be submitted on or before January 2, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[16]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–29009 Filed 12–10–14; 8:45 am]

BILLING CODE 8011–01–P

[16] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–73764; File No. SR–MSRB–2014–07]

Self-Regulatory Organizations; Municipal Securities Rulemaking Board; Order Granting Approval of a Proposed Rule Change Consisting of Rule G–18, on Best Execution of Transactions in Municipal Securities, and Amendments to Rule G–48, on Transactions With Sophisticated Municipal Market Professionals (''SMMP''), and Rule D–15, on the Definition of SMMP

December 5, 2014.

I. Introduction

On August 20, 2014, the Municipal Securities Rulemaking Board (the ''MSRB'' or ''Board'') filed with the Securities and Exchange Commission (the ''SEC'' or ''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change consisting of Rule G–18, on best execution of transactions in municipal securities, and amendments to Rule G–48, on transactions with SMMPs, and Rule D–15, on the definition of SMMP (the ''proposed rule change''). The proposed rule change was published for comment in the **Federal Register** on September 8, 2014.[3]

The Commission received six comment letters on the proposed rule change.[4] On November 21, 2014, the MSRB submitted a response to these comments.[5] This order approves the proposed rule change.

II. Description of the Proposed Rule Change

According to the MSRB, the establishment of a requirement that brokers, dealers and municipal securities dealers (''dealers'') seek best execution of retail customer transactions in municipal securities will have benefits for investors, promote fair competition among dealers, and improve market efficiency.[6] The MSRB stated that the proposed rule change reflects the MSRB's belief that a best execution rule should be generally harmonized with the Financial Industry Regulatory Authority's (''FINRA'') best-execution rule, FINRA Rule 5310 (Best Execution and Interpositioning), for purposes of regulatory efficiency but appropriately tailored to the characteristics of the municipal securities market.[7] The MSRB further believes that, unlike FINRA Rule 5310, it is appropriate to provide an exception from the requirements of the best-execution rule for all transactions with SMMPs.[8] The MSRB represented that the proposed best-execution requirement generally would target the process by which dealers handle orders and execute transactions, and would complement and buttress the MSRB's existing fair-pricing rules.[9]

1. Proposed Rule G–18

Proposed Rule G–18(a) requires that, in any transaction in a municipal security for or with a customer or a customer of another dealer, a dealer must use reasonable diligence to ascertain the best market for the subject security and buy or sell in that market so that the resultant price to the customer is as favorable as possible under prevailing market conditions.[10] Paragraph (a) provides the following factors among the factors that will be considered in determining whether a dealer has used ''reasonable diligence,'' with no single factor being determinative: the character of the market for the security, the size and type of transaction, the number of markets checked, the information reviewed to determine the current market for the subject security or similar securities, the accessibility of quotations, and the terms and conditions of the customer's inquiry or order, including any bids or offers, that result in the transaction, as communicated to the dealer.[11]

Proposed Rule G–18(b) prohibits a dealer from interjecting a third party between itself and the best market for the subject security in a manner inconsistent with paragraph (a).[12] The MSRB stated that paragraph (b) would not prohibit the use of a broker's broker, unless it was inconsistent with the best-execution obligation in paragraph (a).[13]

Proposed Rule G–18(c) specifies that the obligations described in paragraphs (a) and (b) apply to transactions in which the dealer is acting as agent and transactions in which the dealer is acting as principal.[14] Paragraph (c) expressly states that the best-execution obligations are distinct from the fairness and reasonableness of commissions, markups or markdowns, which are governed by Rule G–30.[15]

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Securities Exchange Act Release No. 72956 (September 2, 2014), 79 FR 53236 (September 8, 2014) (the ''Proposing Release'').

[4] *See* Letters from David L. Cohen, Managing Director and Associate General Counsel, Securities Industry and Financial Markets Association (''SIFMA''), dated September 29, 2014 (''SIFMA Letter''); Michael Nicholas, Chief Executive Officer, Bond Dealers of America (''BDA''), dated September 29, 2014 (''BDA Letter No. 1'') and October 30, 2014 (''BDA Letter No. 2''); Chris Melton, Executive Vice President, Coastal Securities (''Coastal''), dated September 29, 2014 (''Coastal Letter''); David T. Bellaire, Esq., Executive Vice President & General Counsel, Financial Services Institute (''FSI''), dated September 29, 2014 (''FSI Letter''); and Robert J. McCarthy, Director of Regulatory Policy, Wells Fargo Advisors, LLC (''Wells Fargo''), dated September 29, 2014 (''Wells Letter''). Staff from the Office of Municipal Securities met with representatives from BDA on October 23, 2014, and had a telephonic meeting with a representative from SIFMA on December 3, 2014, to discuss the proposed rule change.

[5] *See* Letter to Secretary, Commission, from Michael L. Post, Deputy General

Counsel, MSRB, dated November 21, 2014 (''MSRB Response Letter'').

[6] *See supra* note 3 at 2.

[7] *Id.* at 7.

[8] *Id.*

[9] *Id.*

[10] *See* proposed Rule G–18(a).

[11] *Id.*

[12] *See* proposed Rule G–18(b).

[13] *See supra* note 3 at 10.

[14] *See* proposed Rule G–18(c).

[15] *Id.*

2. Supplementary Material to Proposed Rule G–18

Paragraph .01 of the Supplementary Material specifies that the principal purpose of proposed Rule G–18 is to promote, for customer transactions, dealers' use of reasonable diligence in accordance with paragraph (a).[16] Paragraph .01 also specifies that ''[a] failure to have actually obtained the most favorable price possible will not necessarily mean that the dealer failed to use reasonable diligence.''[17] According to the MSRB, Paragraph .01 of the Supplementary Material indicates that Rule G–18 is not intended to be a substantive pricing standard but an order-handling standard for the execution of transactions.[18]

Paragraph .02 of the Supplementary Material provides that a dealer's failure to maintain adequate resources (*e.g.,* staff or technology) is not a justification for executing away from the best available market.[19] This paragraph also states that the level of resources that a dealer maintains should take into account the nature of the dealer's municipal securities business, including its level of sales and trading activity.[20]

Paragraph .03 of the Supplementary Material provides that a dealer must make every effort to execute customer transactions promptly, taking into account prevailing market conditions.[21] In addition, in certain market conditions, a dealer may need more time to use reasonable diligence to ascertain the best market for the subject security.[22]

Paragraph .04 of the Supplementary Material defines the term ''market'' or ''markets'' for purposes of proposed Rule G–18.[23] The term is to be construed broadly and includes, but is not limited to, ''alternative trading systems or platforms,'' ''broker's brokers,'' and ''other counterparties, which may include the dealer itself as principal.''[24] The MSRB represented that the purpose of this language is to tailor the definition of ''market'' to the characteristics of the municipal securities market and to provide flexibility for future developments in both market structure and applied technology.[25]

Paragraph .05 of the Supplementary Material provides that a dealer's duty to provide best execution in any transaction ''for or with'' ''a customer of another dealer'' does not apply in instances when the other dealer is simply executing a customer transaction against the dealer's quote.[26] In addition, a dealer's duty to provide best execution to customer orders received from other dealers arises only when an order is routed from another dealer to the dealer for handling and execution.[27]

Paragraph .06 of the Supplementary Material addresses transactions involving securities for which there is limited pricing information or quotations.[28] This paragraph requires each dealer to have written policies and procedures that address how the dealer's best-execution determinations will be made for such securities in the absence of pricing information or multiple quotations, and to document its compliance with those policies and procedures.[29] This paragraph also provides that a dealer generally should seek out other sources of pricing information and potential liquidity for such securities, including other dealers that the dealer previously has traded with in the security, and generally should, in determining whether the resultant price to the customer is as favorable as possible under prevailing market conditions, analyze other relevant data to which it reasonably has access.[30]

Paragraph .07 of the Supplementary Material provides that, if a dealer receives an unsolicited instruction from a customer designating a particular market for the execution of the customer's transaction, the dealer is not required to make a best-execution determination beyond the customer's specific instruction.[31] Dealers are, however, still required to process that customer's transaction promptly and in accordance with the terms of the customer's bid or offer.[32]

Paragraph .08(a) of the Supplementary Material requires that a dealer must, at a minimum, conduct annual reviews of its policies and procedures for determining the best available market for the executions of its customers' transactions.[33] While no more frequent interval is specifically required, a dealer must conduct reviews at a frequency reasonably related to the nature of its municipal securities business.[34] In conducting such periodic reviews, a dealer must assess whether its policies and procedures are reasonably designed to achieve best execution, taking into account the quality of the executions the dealer is obtaining under its current policies and procedures, changes in market structure, new entrants, the availability of additional pre-trade and post-trade data, and the availability of new technologies, and to make promptly any necessary modifications to such policies and procedures as may be appropriate in light of such reviews.[35]

Paragraph .08(b) of the Supplementary Material provides that a dealer that routes its customers' transactions to another dealer that has agreed to handle those transactions as agent or riskless principal for the customer (*e.g.,* a clearing firm or other executing dealer) may rely on that other dealer's periodic reviews as long as the results and rationale of the review are fully disclosed to the dealer and the dealer periodically reviews how the other dealer's review is conducted and the results of the review.[36]

Paragraph .09 of the Supplementary Material provides that the provisions of proposed Rule G–18 do not apply to transactions in municipal fund securities.[37]

3. Proposed Amendments to Rule G–48

The MSRB stated that the best-execution obligations under proposed Rule G–18 do not apply to transactions with customers that are SMMPs.[38] The proposed amendments to Rule G–48 add a new section (e) to provide expressly that a dealer shall not have any obligation under Rule G–18 to use reasonable diligence to ascertain the best market for the subject security and buy or sell in that market so that the resultant price to the SMMP is as favorable as possible under prevailing market conditions.[39] The MSRB noted that Rule G–48 is the new consolidated MSRB rule under which all modified

[16] *See* proposed Rule G–18 Paragraph .01 of the Supplementary Material.

[17] *Id.*

[18] *See supra* note 3 at 11.

[19] *See* proposed Rule G–18 Paragraph .02 of the Supplementary Material.

[20] *Id.*

[21] *See* proposed Rule G–18 Paragraph .03 of the Supplementary Material.

[22] *Id.*

[23] *See* proposed Rule G–18 Paragraph .04 of the Supplementary Material.

[24] *Id.*

[25] *See supra* note 3 at 12.

[26] *See* proposed Rule G–18 Paragraph .05 of the Supplementary Material.

[27] *Id.*

[28] *See* proposed Rule G–18 Paragraph .06 of the Supplementary Material.

[29] *Id.*

[30] *Id.*

[31] *See* proposed Rule G–18 Paragraph .07 of the Supplementary Material.

[32] *Id.*

[33] *See* proposed Rule G–18 Paragraph .08(a) of the Supplementary Material.

[34] *Id.*

[35] *Id.*

[36] *See* proposed Rule G–18 Paragraph .08(b) of the Supplementary Material.

[37] *See* proposed Rule G–18 Paragraph .09 of the Supplementary Material.

[38] *See supra* note 3 at 14.

[39] *See* proposed amendments to Rule G–48.

obligations of dealers are addressed when dealing with SMMPs.[40]

4. Proposed Amendments to Rule D–15

Existing Rule D–15 contains the SMMP definition.[41] The proposed amendments to Rule D–15 provide that an SMMP is defined by three essential requirements: the nature of the customer; a determination of sophistication by the dealer; and an affirmation by the customer.[42] The proposed amendments to Rule D–15 do not change the nature of the customer and the determination of sophistication by the dealer, excluding minor, non-substantive revisions.[43] The proposed amendments to Rule D–15, however, expand the existing customer affirmation [44] to require that the customer affirmatively indicate that it (1) is exercising independent judgment in evaluating: the recommendations of the dealer, the quality of execution of the customer's transactions by the dealer, and the transaction price for certain non-recommended secondary market agency transactions; and (2) has timely access to material information that is available publicly through established industry sources.[45] The MSRB stated that a dealer could not treat any customer as an SMMP after the proposed best-execution rule is implemented unless the dealer reasonably determined that the customer had given the broader affirmation required under the proposed amendments to Rule D–15.[46] The MSRB believes that it is important that the definition of SMMP under the proposed amendments to Rule D–15 (as under the existing rule) is not self-executing, nor are the contingencies for its application in the unilateral control of the interfacing dealer.[47]

The proposed amendments to paragraph .02 of the Supplementary Material to Rule D–15 would provide that the SMMP customer affirmation may be given, in addition to the existing bases, on a type-of-transaction basis.[48]

5. Implementation Period

The MSRB requested that the proposed rule change be approved with an implementation date one year after the Commission approval date.[49] According to the MSRB, this implementation period would allow dealers sufficient time to develop or modify their policies and procedures and to acquire or adjust the level of their resources.[50] The MSRB also stated that this one year implementation period would allow time for the MSRB to create educational materials and conduct outreach to the dealer community, as appropriate, regarding the proposed rule change.[51]

A full description of the proposed rule change is contained in the Proposing Release.

III. Summary of Comments Received and the MSRB's Response

As noted previously, the Commission received six comment letters on the proposed rule change and a response letter from the MSRB.[52] Commenters generally supported the proposed rule change, however, some asked for further clarification and provided suggestions to the proposed rule change.[53]

1. Use of Best Execution

SIFMA, BDA and Wells Fargo do not support the use of the phrase ''best execution'' in the proposed rule change.[54] SIFMA and BDA believe that regulatory examiners and enforcement staff will use the phrase to enforce standards that are not applicable to the municipal securities market.[55] Also, Wells Fargo believes that the term best execution correlates with the equity securities market and is inconsistent with the fundamental goal expressed within proposed rule G–18.[56] Similarly, BDA believes using a term borrowed from standards applicable to other markets that operate very differently from the municipal securities market is inappropriate.[57] SIFMA and BDA suggest removing the word ''best'' in certain instances and replacing ''best execution'' with ''execution diligence'' in others.[58] Wells Fargo recommends the term ''best execution'' be removed from the proposed rule language, including the title, and be replaced with the term ''reasonable diligence.'' [59]

The MSRB responded by highlighting that paragraph .01 of the Supplementary Material indicates that proposed Rule G–18 is not intended to create a substantive pricing standard, but rather an order-handling standard for the execution of transactions.[60] The MSRB noted that paragraph .01 of the Supplementary Material expressly provides that a failure to have actually obtained the most favorable price possible will not necessarily mean the dealer failed to use reasonable diligence under the circumstances.[61] The MSRB represented that ''best execution'' is an established term for the concept of execution quality in customer securities transactions in other contexts, and the standard in those contexts is similarly not a most-favorable-price standard.[62] The MSRB believes that concerns that regulatory examiners and enforcement staff will use the phrase ''best execution'' to enforce standards that are not applicable to the municipal securities market and that are inconsistent with the MSRB's stated intent that ''the most favorable price possible'' will not necessarily be equated with the term ''best execution'' are speculative in nature, and do not warrant changes to the proposed rule language.[63]

2. Definition of Market

BDA believes proposed Rule G–18 broadens the concept of ''market'' well beyond FINRA Rule 5310.[64] BDA believes there is no concept at all of limiting the market to market centers or what FINRA Rule 5310 considers venues.[65] BDA believes any dealer or other counterparty in the country can potentially constitute a ''market'' that needs to be considered.[66] BDA

[40] *See supra* note 3 at 14.

[41] Under existing Rule D–15, ''SMMP'' means a customer of a dealer that is: a bank, savings and loan association, insurance company, or registered investment company; or an investment adviser registered either with the SEC under Section 203 of the Investment Advisers Act of 1940 or with a state securities commission (or any agency or office performing like functions); or any other entity (whether a natural person, corporation, partnership, trust, or otherwise) with total assets of at least $50 million; and, that the dealer has a reasonable basis to believe is capable of evaluating investment risks and market value independently, both in general and with regard to particular transactions and investment strategies in municipal securities, and that affirmatively indicates that it is exercising independent judgment in evaluating the recommendations of the dealer.

[42] *See* proposed amendments to Rule D–15.

[43] The MSRB stated that the proposed amendments to Rule D–15 include non-substantive (*e.g.,* technical, conforming and organizational) revisions to accommodate the substantive changes and improve the readability of the rule. *See supra* note 3 at 16–17

[44] The SMMP customer affirmation contained in existing Rule D–15 requires that the customer affirmatively indicate that it is exercising independent judgment in evaluating the recommendations of the dealer.

[45] *See* proposed amendments to Rule D–15.

[46] *See supra* note 3 at 17.

[47] *Id.*

[48] *See* proposed amendments to Rule D–15.

[49] *See supra* note 3 at 8.

[50] *Id.*

[51] *Id.*

[52] *See supra* notes 4 and 5.

[53] *Id.*

[54] *See* SIFMA Letter at 2, BDA Letter No. 1 at 3, and Wells Letter at 4.

[55] *See* SIFMA Letter at 2 and BDA Letter No. 1 at 3.

[56] *See* Wells Letter at 4.

[57] *See* BDA Letter No. 1 at 3.

[58] *See* SIFMA Letter at 2 and BDA Letter No. 1 at 3.

[59] *See* Wells Letter at 4.

[60] *See* MSRB Response Letter at 2.

[61] *Id.*

[62] *See* MSRB Response Letter at 2–3.

[63] *See* MSRB Response Letter at 3.

[64] *See* BDA Letter No. 1 at 2.

[65] *Id.*

[66] *Id.*

expresses concern that the proposed definition requires dealers to use their reasonable diligence to locate the one counterparty that will pay the best price, not the best market center, and that such a duty is more expansive than the one under FINRA Rule 5310 and too burdensome to impose.[67] Coastal believes the definition creates an undue burden not required by FINRA rules by defining each dealer as a market.[68] Coastal recommends wording the proposed Rule G–18 language in line with existing FINRA rules.[69]

The MSRB responded by stating that it believes that the proposed definition of ''market'' is appropriate, even as compared to FINRA Rule 5310.[70] The MSRB noted that FINRA states that its definition of ''market'' or ''markets'' in FINRA Rule 5310 also is to be construed broadly to encompass a variety of different venues, including, but not limited to, market centers.[71] The MSRB further stated that FINRA Rule 5310 provides that, in the absence of quotations, ''members are not relieved from taking reasonable steps and employing their market expertise in achieving the best execution of customer orders,'' and, ''[i]n these instances, a member should generally seek out other sources of pricing information or potential liquidity, which may include obtaining quotations from other sources (*e.g.,* other firms that the member previously has traded within the security).'' [72]

The MSRB does not believe the definition of ''market'' creates a duty for dealers to use reasonable diligence to locate the one counterparty that will pay the best price because, as previously noted above, proposed Rule G–18 is an order-handling and transaction-execution standard and does not contain any substantive pricing standard.[73] In addition, the MSRB noted that paragraph .01 of the Supplementary Material to proposed Rule G–18 expressly provides that a failure to have actually obtained the most favorable price possible will not necessarily mean that the dealer failed to use reasonable diligence under the circumstances.[74] The MSRB believes that the number of counterparties and/or other markets the dealer should consider would depend on the analysis of the factors articulated in proposed Rule G–18(a), and any other facts and circumstances that would contribute to a dealer's identification of the best market.[75]

3. Number of Markets Checked

SIFMA requests that ''the number of markets checked'' factor be deleted from proposed Rule G–18(a).[76] SIFMA believes this factor is more applicable to the equities market structure of exchanges with a central aggregator of bids and offers as well as constant liquidity.[77] SIFMA further believes that, unlike equity markets, there is no direct continuously-quoted, bid-and-ask trading market between bond dealers in the municipal markets, so the mere act of contacting other dealers for quotes on fixed income securities does not necessarily result in a more timely or beneficial execution.[78] SIFMA disagrees with any suggestion that the act of contacting other dealers would be the implicit or requisite procedure to evidence best execution.[79] SIFMA also believes ''the number of markets checked'' is covered by another factor—''the information reviewed to determine the current market for the subject security or similar security.'' [80] SIFMA expresses concern that ''the number of markets checked'' factor is inconsistent with paragraph .04 of the Supplementary Material to proposed Rule G–18, which acknowledges that a dealer itself as principal may be the best market to satisfy best execution for the subject security.[81]

The MSRB noted that while the structure of the municipal securities market is different than the equity securities market structure of exchanges, that difference does not necessarily reduce the value of a dealer checking multiple markets, as defined by proposed Rule G–18, to ascertain the best market for executing customer transactions.[82] The MSRB stated that ''the number of markets checked'' factor is only one factor in the non-exhaustive list of factors to be considered, and no single factor is determinative.[83] The MSRB further stated that, depending on the particular facts and circumstances, it could be consistent with the reasonable-diligence standard for a dealer not to contact other dealers, however, it would be important, given the proposed rule's emphasis on complying with policies and procedures, for a dealer to have written policies and procedures in place that address such circumstances.[84]

The MSRB believes it is important to explicitly include ''the number of markets checked'' factor to further the objective of promoting fair competition among dealers.[85] The MSRB does not believe that ''the number of markets checked'' factor is inconsistent with the definition of ''market'' in paragraph .04 of the Supplementary Material.[86] According to the MSRB, although paragraph .04 explicitly states that the dealer itself as principal could be the best market, it does not indicate that such a dealer would always be the best market for purposes of best execution, and, depending on the facts and circumstances, the exercise of reasonable diligence to comply with the proposed rule likely would regularly require a dealer to check other markets in addition to its own inventory.[87] As such, the MSRB decided not to delete this factor from the non-exhaustive list of factors in proposed Rule G–18(a).[88]

4. Securities With Limited Quotations or Pricing Information

Coastal believes proposed Rule G–18 erroneously presumes retail customers turn in market orders to purchase specific municipal bonds in the secondary market and, consequently, imposes unnecessary regulatory burdens on selling dealers.[89] Coastal believes, on the sell side, there are no orders to speak of that would benefit from requiring a dealer to complete a process demonstrating best execution.[90] Coastal questions the flexibility of the proposed best-execution standard and suggests that the requirements for securities with limited quotations or pricing information is unnecessary.[91] Coastal recommends wording the proposed Rule G–18 language in line with existing FINRA rules.[92]

The MSRB responded by noting that the application of the proposed best-execution standard does not hinge on whether a customer places a market order or on whether a customer has identified a particular municipal security.[93] The MSRB believes that while many customer orders in the municipal securities market are placed in response to offerings made by sellers

[67] *Id.*
[68] *See* Coastal Letter at 2.
[69] *Id.*
[70] *See* MSRB Response Letter at 3.
[71] *Id.*
[72] *See* MSRB Response Letter at 3–4 and Paragraph .02 of the Supplementary Material to FINRA Rule 5310.
[73] *See* MSRB Response Letter at 4.
[74] *Id.*
[75] *Id.*
[76] *See* SIFMA Letter at 4.
[77] *Id.*
[78] *Id.*
[79] *Id.*
[80] *Id.*
[81] *Id.*
[82] *See* MSRB Response Letter at 4–5.
[83] *Id.* at 5.
[84] *Id.*
[85] *Id.*
[86] *Id.*
[87] *Id.*
[88] *Id.*
[89] *See* Coastal Letter at 1.
[90] *Id.*
[91] *Id.*
[92] *Id.* at 2.
[93] *See* MSRB Response Letter at 6.

out of their own inventories, there are customer-initiated orders in the market as well.[94] The MSRB believes that a significant benefit of the flexible best-execution standard embodied in proposed Rule G–18 is the ability to apply to an evolving market over time.[95]

The MSRB also believes that paragraph .06 of the Supplementary Material of proposed Rule G–18, which requires written policies and procedures that address how a dealer would make its best-execution determinations in cases of limited quotations or pricing information, is consistent with FINRA Rule 5310.[96] The MSRB stated that the FINRA rule, with which the MSRB has generally harmonized, does not contain further prescriptions than proposed Rule G–18 in this area.[97] The MSRB believes that including additional language would not materially add to proposed Rule G–18, which already contains the core requirement that dealers use reasonable diligence and is tailored to the characteristics of the municipal securities market.[98]

5. Enforcement Concerns

SIFMA and Wells Fargo express concerns with how proposed rule G–18 would be enforced.[99] SIFMA believes that the non-exhaustive list of factors to be considered by dealers creates a *de facto* enforcement checklist for FINRA.[100] SIFMA questions how compliance with ''the number of markets checked'' factor can be proved.[101] SIFMA members are concerned that enforcement regulators will challenge a dealer's trade price because the regulators will have the benefit of hindsight and may be able to show other trades for the same CUSIP at marginally better prices and will assert that the dealer therefore did not provide best execution.[102] SIFMA suggests codifying the MSRB's view that proposed Rule G–18 is not intended to create a trade-through rule by adding the following to paragraph .01 of the Supplementary Material: ''[a] failure to consider a superior price available on another market would not necessarily constitute a violation of the rule.'' [103]

The MSRB responded by stating that the mandatory factors in proposed Rule G–18(a) would be considered in any examination and/or enforcement activities by regulators, but no single factor would be determinative, and other facts and circumstances could be considered as well in determining whether a dealer has used reasonable diligence.[104] The MSRB noted that it would be important, given proposed rule G–18's emphasis on complying with sound policies and procedures, for a dealer to have written policies and procedures in place that articulate how the dealer would exercise reasonable diligence, which should, at a minimum, include consideration of the number of markets checked factor, as well as the others listed in the proposed rule.[105] Also, according to the MSRB, under the broad standard in proposed Rule G–18, the subsequent discovery of a market that had better prices than the market in which a dealer executed a customer transaction would inform a dealer's development of its policies and procedures and periodic review of them under Paragraph .08 of the Supplementary Material.[106] The MSRB noted, however, a failure to consider such a market would not necessarily constitute a violation of the proposed rule, and, as provided in proposed Supplementary Material .01, a failure to have actually obtained the most favorable price possible would not necessarily mean that the dealer failed to use reasonable diligence.[107] As such, the MSRB does not believe revision of the proposed rule language is necessary at this time.[108]

Wells Fargo believes that the proposed rule language regarding a dealer's failure to maintain adequate resources (set forth in paragraph .02 of the Supplementary Material of proposed Rule G–18) may create confusion over enforcement as proposed rule G–18 could be applied inconsistently and arbitrarily based on the activity level and number of ATSs to which a particular dealer subscribes.[109]

The MSRB responded by stating that proposed Rule G–18 establishes only one best execution standard for all dealers in the municipal securities market.[110] According to the MSRB, paragraph .02 of the Supplementary Material, similar to FINRA Rule 5310(c), addresses the need for dealers to devote adequate resources towards meeting their best-execution obligations, while acknowledging that a ''one-size-fits-all'' approach to staffing is not required.[111]

6. Request for Clarification/Guidance

BDA, FSI and Wells Fargo request guidance and/or clarification on how to comply with the proposed rule change generally, as well as in more particular circumstances, and how to evidence compliance to regulators.[112]

The MSRB responded by stating, at this time, it is not revising proposed Rule G–18 to include any more prescriptive provisions because doing so could negate the benefits of a principles-based rulemaking approach.[113] The MSRB stated that while it understands the desire on the part of dealers for concrete steps to follow for their particular business models, such a prescriptive rule might undermine the flexibility the rule is designed to provide.[114] The MSRB represented that, if the proposed rule change is approved, the MSRB plans to provide practical guidance on complying with the best-execution standard prior to implementation of the proposed rule change, in coordination with FINRA.[115]

7. Proposed Amendments to Rules G–48 and D–15

(a) Public Comment

SIFMA and Wells Fargo express concerns that the MSRB did not request public comment on the proposed amendments to Rule D–15 prior to filing the proposed rule change with the SEC.[116] Additionally, SIFMA and Wells Fargo believe the SEC should have provided a lengthier comment period.[117] Wells Fargo believes this aspect of the proposed rule change should be withdrawn until additional time is provided.[118]

The MSRB responded by noting that the SEC determines the length of the public comment period and it provided 21 days for comment on the proposed rule change, specifically soliciting comment on the proposed amendments to Rules G–48 and D–15.[119] The MSRB stated that any additional solicitation of comments, prior to the SEC's publication of a proposed rule change, by a self-regulatory organization, such

[94] *Id.*
[95] *Id.*
[96] *Id.*
[97] *Id.*
[98] *Id.*
[99] *See* SIFMA Letter at 2, 4–5 and Wells Letter at 3.
[100] *See* SIFMA Letter at 4.
[101] *Id.*
[102] *Id.* at 4–5.
[103] *Id.* at 5.
[104] *See* MSRB Response Letter at 6.
[105] *Id.* at 6–7.
[106] *Id.* at 7.
[107] *Id.*
[108] *Id.*
[109] *See* Wells Letter at 3.
[110] *See* MSRB Response Letter at 7.
[111] *Id.*
[112] *See* BDA Letter No. 1 at 3–4, BDA Letter No. 2 at 1, FSI Letter 2–3, and Wells Letter 2–3 and 5.
[113] *See* MSRB Response Letter at 7.
[114] *Id.* at 7–8.
[115] *Id.* at 8.
[116] *See* SIFMA Letter at 2 and 6 and Wells Letter at 2.
[117] *See* SIFMA Letter at 9–10 and Wells Letter at 4.
[118] *See* Wells Letter at 4.
[119] *See* MSRB Response Letter at 8.

as the MSRB, is not required.[120] The MSRB also noted that it provided two rounds of public comment, focusing first on the concept of applying a best execution standard to customer transactions in municipal securities and, second, evaluating specific rule language articulating such standard.[121] According to the MSRB, the issues related to the proposed amendments to Rules G–48 and D–15 are derivative of changes in response to comments and are consistent with well-established requirements applicable to qualification as an SMMP.[122] As such, the MSRB does not believe the proposed amendments to Rules G–48 and D–15 warrant another round of comment in this rulemaking matter.[123]

(b) Economic Analysis

SIFMA believes the MSRB did not discuss any economic analysis as it relates to the proposed amendments to Rule D–15.[124] SIFMA expresses concern that the proposed amendments to Rule D–15 fundamentally alter how a dealer determines if a customer qualifies as an SMMP.[125] SIFMA suggests that the MSRB should have conducted an economic analysis consistent with its Policy for Integrating Economic Analysis in MSRB Rulemaking (''Policy'') in proposing the amendments to Rule D–15.[126] FSI believes that, prior to approving the proposed rule change, the MSRB should publish a cost-benefit analysis to determine whether the proposed rule change would have consequences for liquidity in the municipal securities market which would impact retail investors.[127]

The MSRB responded by clarifying that the Policy does not apply to rulemaking initiatives, like this one, that were initially presented to the MSRB Board of Directors before September 26, 2013.[128] The MSRB represented that it had been particularly mindful of potential costs and burdens of the proposed rule change, and that the proposed exemption for transactions for or with SMMPs is one such example.[129] The MSRB noted that although no economic analysis of the proposed amendments to Rule D–15 is required pursuant to the Policy, the MSRB, as appropriate, has provided additional analysis in the MSRB Response Letter in response to the commenters' concerns.[130] The MSRB, however, does not believe that the proposed amendments fundamentally alter the conclusions of its preliminary economic analysis.[131] The MSRB further stated that some of the costs associated with compliance with proposed Rule G–18 would be reduced in the aggregate due to the exemption for transactions with SMMPs, as compared to an alternative approach in which there was no such exemption.[132] The MSRB believes the costs associated with the amendments to Rule D–15 must be evaluated in light of the overall cost mitigation that flows from the existence of the SMMP exemption.[133]

(c) SMMP Customer Affirmation

SIFMA and Wells Fargo express concerns regarding the invalidation of existing SMMP customer affirmations after the effective date of the proposed rule change.[134] BDA states that its members believe that some if not many institutional investors will be unwilling to provide an affirmation that has the effect of excluding them from the application of a best execution rule on the dealer.[135] BDA recommends that the SMMP customer affirmation should be bifurcated into two affirmations: (1) The existing SMMP customer affirmation and, if an institutional investor provides such affirmation, the investor should be treated as an SMMP for all purposes other than for the application of the best execution rule; and (2) an affirmation tailored just to the best execution rule.[136] Wells Fargo believes there is no benefit to invalidating existing SMMP customer affirmations and BDA does not see the value in expanding the existing SMMP customer affirmations.[137]

According to the MSRB, it is important for the SMMP customer affirmation to be unified and speak to all of the modified dealer obligations.[138] The MSRB believes that unnecessary inefficiencies and additional burdens on dealers would result from a piecemeal approach, under which dealers would potentially have different customers that are SMMPs only with respect to several different permutations of modified dealer obligations.[139] The MSRB believes this belief is supported by SIFMA's statement that, if the SEC approves the proposed amendments to Rule D–15 as is, or even if the affirmation did not need to be unified, some of SIFMA's members would prefer a unified affirmation, as it would be much easier to implement and administer.[140] Further, the MSRB believes the unified approach to the SMMP customer affirmation provides greater protection to investors, as it would help ensure that dealer obligations would be modified only for transactions with customers that are knowingly willing to have their dealer subject to the several reduced obligations provided in Rule G–48.[141] The MSRB believes that this added investor protection, as well as the mitigated costs of compliance with the best execution obligation provided by the SMMP exemption, would justify the costs of requiring dealers to obtain new affirmations from all SMMP customers, including existing SMMPs.[142]

SIFMA, BDA and Wells Fargo express concerns regarding the operational impact of deharmonizing the SMMP qualification process from the FINRA Rule 2111 process and precluding dealers from satisfying the SMMP affirmation requirement by receiving a FINRA Rule 2111 affirmation.[143] Wells Fargo believes this aspect of the proposed rule change contradicts the MSRB's previously stated goal to seek harmony with FINRA rules.[144] SIFMA believes an SMMP customer affirmation that mirrors FINRA's affirmation process as closely as possible makes the most economic sense, encourages cross-over investors, and eases dealer compliance regimes.[145] SIFMA believes the costs of maintaining separate affirmation systems for institutional accounts across product lines will be unduly burdensome.[146] SIFMA proposes an alternative revision to Rule D–15 which would require dealers to have a reasonable basis to believe that an SMMP would like to avail itself to the conveniences of SMMP status.[147] As an alternative approach, SIFMA suggests a negative consent letter sent to institutional customers.[148] BDA and Wells Fargo also favor a negative

[120] *Id.*
[121] *Id.* at 8–9.
[122] *Id.* at 9.
[123] *Id.*
[124] *See* SIFMA Letter at 8.
[125] *Id.*
[126] *Id.* at 8–9.
[127] *See* FSI Letter at 3.
[128] *See* MSRB Response Letter at 9.
[129] *Id.*
[130] *Id.*
[131] *Id.*
[132] *Id.*
[133] *Id.*
[134] *See* SIFMA Letter at 2, 6 and 9 and Wells Letter at 4.
[135] *See* BDA Letter No. 2 at 1.
[136] *Id.*
[137] *See* Wells Letter at 4 and BDA Letter No. 1 at 3.
[138] *See* MSRB Response Letter at 10.
[139] *Id.*
[140] *Id.*
[141] *Id.*
[142] *Id.*
[143] *See* SIFMA Letter at 2, 6–7, and 9, BDA Letter No. 1 at 3–4 and Wells Letter at 2 and 4–5.
[144] *See* Wells Letter at 4.
[145] *See* SIFMA Letter at 7.
[146] *Id.* at 6.
[147] Id. at 7.
[148] *Id.* at 8.

consent approach for SMMPs effectively to opt out of SMMP status.[149]

The MSRB does not believe the proposed amendments to Rule D–15 would inappropriately deharmonize the rule from FINRA's affirmation or contradict the MSRB's established position on SMMP customer affirmations.[150] Previously, the MSRB stated that it ''considers it desirable from the standpoint of reducing the cost of dealer compliance to maintain consistency with FINRA rules, absent clear reasons for treating transactions in municipal securities differently.'' [151] According to the MSRB, consistent with this goal, the proposed amendments to Rule D–15 are aligned to harmonize with FINRA Rule 2111 but with adjustments associated with the SMMP exemption from the best-execution obligation, as well as the other modified dealer obligations currently covered by Rule G–48.[152] The MSRB noted that FINRA Rule 2111(b) and paragraph .07 of the Supplementary Material thereto provide an institutional investor exemption to the suitability obligation under that rule, which is similar to the existing exemption dealers have from the suitability requirement of MSRB Rule G–19 under Rule G–48(c), however, neither FINRA Rule 2111 nor any other FINRA rule provides a similar exemption from best execution or any other obligations for its member firms comparable to those included in Rule G–48.[153] The MSRB further noted that no commenter expressed an objection to the proposed exemption from best execution under Rule G–48, and BDA and SIFMA have explicitly endorsed the exemption in comment letters relating to the proposed rule change.[154] The MSRB believes clear reasons exist for the proposed amendments to Rule D–15 to vary from FINRA's affirmation under FINRA Rule 2111, as the amendments would facilitate the exemption supported by commenters and mitigate the burden of compliance with proposed Rule G–18 by reducing the number of customers to which the obligation would apply.[155]

The MSRB believes that the proposed amendments to Rule D–15 would enhance protections to customers by addressing the full scope of modified obligations that dealers would be relieved of performing, providing clear disclosure to SMMPs regarding the modified dealer obligations and obtaining affirmative statements that SMMPs can, for example, exercise independent judgment in performing the evaluations related to best execution, suitability and the other modified dealer obligations.[156] The MSRB also believes that any changes to dealer affirmation systems made in an effort to comply with the proposed amendments to Rule D–15 would be justified by the need to tailor the rule to the particular interests and characteristics of the municipal securities market, which are not reflected in FINRA rules.[157] Additionally, according to the MSRB, a negative consent letter to institutional customers would not be an appropriate alternative, as it would be important for customers to take affirmative action to be treated as an SMMP.[158]

8. Implementation Period

SIFMA supports the one-year implementation period for proposed Rule G–18 and the proposed amendments to Rule G–48.[159] If the SEC approves the proposed amendments to Rule D–15, however, SIFMA requests an additional six-month implementation period.[160]

The MSRB believes a one-year implementation period would be sufficient for dealers to comply with the proposed rule change, including amendments to Rule D–15.[161] According to the MSRB, one year would be adequate for dealers to develop systems, establish policies and procedures, conduct training and obtain the expanded SMMP customer affirmations.[162]

IV. Discussion and Commission Findings

The Commission has carefully considered the proposed rule change, the comments received, and the MSRB's response to the comments, and finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to the MSRB. In particular, the Commission finds that the proposed rule change is consistent with Section 15B(b)(2)(C) of the Act,[163] which requires, among other things, that the rules of the MSRB be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in municipal securities and municipal financial products, to remove impediments to and perfect the mechanism of a free and open market in municipal securities and municipal financial products, and, in general, to protect investors, municipal entities, obligated persons, and the public interest.

The Commission notes that its Report on the Municipal Securities Market, issued July 31, 2012, recommended that the MSRB consider a rule that would require municipal bond dealers to seek ''best execution'' of customer orders for municipal securities. The Commission believes that the establishment of a requirement that dealers seek best execution of customer transactions in municipal securities, as required by the proposed rule change, will have benefits for investors, improve market efficiency and promote fair competition among dealers. The Commission believes that the new order-handling obligations of dealers will complement the MSRB's existing substantive pricing standards, helping to ensure that investors receive a price that is as favorable as possible under prevailing market conditions. The proposed rule change is appropriately designed to buttress existing dealer pricing obligations and promote better execution quality for investors in municipal securities.

Moreover, the Commission believes that the proposed amendments to Rule G–48 and Rule D–15 to effectuate the exemption for transactions with SMMPs will facilitate transactions in municipal securities and help perfect the mechanism of a free and open market in municipal securities by avoiding the imposition of regulatory burdens if they are not needed. In addition, the Commission believes that the proposed rule change will protect investors by helping to ensure that the exemption for dealers from the best-execution obligation for transactions with SMMPs (as well as the reduced dealer obligations related to time-of-trade disclosure and pricing) will apply only to transactions with SMMPs. The Commission believes it is important that the definition of SMMP is not self-executing nor in the unilateral control of the interfacing dealer. The Commission also believes that the proposed rule change is beneficial to the municipal securities market and that the changes

[149] *See* BDA Letter No. 1 at 4 and Wells Letter at 4.

[150] *See* MSRB Response Letter at 11.

[151] *See* MSRB Response Letter at 11 (quoting from Securities Exchange Act Release No. 66772 (April 9, 2012)).

[152] *See* MSRB Response Letter at 11.

[153] *Id.*

[154] *Id.*

[155] *Id.*

[156] *Id.*

[157] *Id.*

[158] *Id.*

[159] *See* SIFMA Letter at 9.

[160] *Id.*

[161] *See* MSRB Response Letter at 12.

[162] *Id.*

[163] 15 U.S.C. 78o-4(b)(2)(C).

will enhance investor confidence and protection.

In approving the proposed rule change, the Commission has considered the proposed rule change's impact on efficiency, competition, and capital formation.[164] The Commission believes that the proposed rule change includes accommodations that help promote efficiency because the proposed rule change is designed to allow flexibility for each dealer to adapt its policies and procedures to be reasonably related to the nature of its business, including its level of sales and trading activity and the type of customer transactions at issue. The Commission also believes that the reasonable diligence standard and the SMMP customer affirmation are sufficiently flexible to be met by a diverse population of dealers and allows a dealer to evidence compliance in a manner that may be different from that used by another dealer. The Commission does not believe that the proposed rule change would impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act since it would apply to all dealers who engage in municipal securities transactions. The Commission also believes that the proposed rule change takes into account competitive concerns that could arise from the diversity of dealer characteristics because proposed Rule G–18 embodies a broad and flexible principles-based standard. The Commission has reviewed the record for the proposed rule change and notes that the record does not contain any information to indicate that the proposed rule change would have a negative effect on capital formation.

As noted above, the Commission received six comment letters on the filing. The Commission believes that the MSRB considered carefully and responded adequately to comments and concerns regarding the proposed rule change. While commenters suggested changes to the filing or opposed certain aspects of the proposed rule change, the Commission notes that no commenters argued that the proposed rule change was inconsistent with the applicable provisions of the Act.

For the reasons noted above, including those discussed in the MSRB Response Letter, the Commission believes that the proposed rule change is consistent with the Act.

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[165] that the proposed rule change (SR–MSRB–2014–07) be, and hereby is, approved.

For the Commission, pursuant to delegated authority.[166]

Brent J. Fields,

Secretary.

[FR Doc. 2014–29023 Filed 12–10–14; 8:45 am]

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[164] See 15 U.S.C. 78c(f).

[165] 15 U.S.C. 78s(b)(2).

[166] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–73755; File Nos. SR–FICC–2014–810; SR–NSCC–2014–811; SR–DTC–2014–812]

Self-Regulatory Organizations; Fixed Income Clearing Corporation; National Securities Clearing Corporation; The Depository Trust Company; Notice of Filing of Advance Notices, as Amended, To Amend and Restate the Third Amended and Restated Shareholders Agreement, Dated as of December 7, 2005

December 5, 2014.

Pursuant to Section 806(e)(1) of Title VIII of the Dodd-Frank Wall Street Reform and Consumer Protection Act entitled the Payment, Clearing, and Settlement Supervision Act of 2010 [1] (''Clearing Supervision Act'') and Rule 19b–4(n)(1)(i) [2] under the Securities Exchange Act of 1934, notice is hereby given that on November 5, 2014, Fixed Income Clearing Corporation (''FICC''), National Securities Clearing Corporation (''NSCC''), and The Depository Trust Company (''DTC,'' together with FICC and NSCC, ''Operating Subsidiaries'') filed with the Securities and Exchange Commission (''Commission'') the advance notices SR–FICC–2014–810, SR–NSCC–2014–811 and SR–DTC–2014–812 (''Advance Notices''), respectively, as described in Items I and II below, which Items have been prepared primarily by the Operating Subsidiaries. On November 17, 2014, the Operating Subsidiaries each filed Amendments No. 1 to the Advance Notices.[3] On November 17, 2014 FICC withdrew Amendment No. 1 and filed Amendment No. 2 to advance notice SR–FICC–2014–810.[4] The Commission is publishing this notice to solicit comments on the Advance Notices, as amended, from interested persons.

I. Clearing Agencies' Statement of the Terms of Substance of the Advance Notices

The Advance Notices, as amended, were filed by the Operating Subsidiaries in connection with the amendment and restatement of the Third Amended and Restated Shareholders Agreement, dated as of December 7, 2005 (''Existing Shareholders Agreement''), by and among The Depository Trust & Clearing Corporation (''DTCC''), Operating Subsidiaries, and the other parties thereto (such Existing Shareholders Agreement as so proposed to be amended and restated, ''Revised Shareholders Agreement''), as more fully described below.

II. Clearing Agencies' Statement of the Purpose of, and Statutory Basis for, the Advance Notices

In their filings with the Commission, the Operating Subsidiaries included statements concerning the purpose of and basis for the Advance Notices, as amended, and discussed any comments received on the Advance Notices, as amended. The text of these statements may be examined at the places specified in Item IV below. The Operating Subsidiaries have prepared summaries, set forth in sections (A) and (B) below, of the most significant aspects of these statements.

(A) Clearing Agencies' Statement on Comments on the Advance Notices Received From Members, Participants, or Others

Beginning in June 2014, DTCC has conducted outreach to users of the services and facilities of the Operating Subsidiaries in order to provide them with advance notice of the proposed changes and the impact on a firm-by-firm basis. The outreach efforts have included providing individual shareholder firms with statements of their projected potential impact. As of the date of this filing, no written comments relating to the proposed changes have been received in response to this outreach. The Commission will be notified of any written comments received.

(B) Advance Notices Filed Pursuant to Section 806(e) of the Payment, Clearing and Settlement Supervision Act

Description of Change

The Existing Shareholders Agreement is proposed to be amended to: (1) Update and simplify the formulas used to allocate shares of the common stock

[1] 12 U.S.C. 5465(e)(1).

[2] 17 CFR 240.19b–4(n)(1)(i).

[3] NSCC and DTC filed Amendment Nos. 1 to provide additional description of the changes proposed in advance notices SR–NSCC–2014–811 and SR–DTC–2014–812, respectively.

[4] FICC withdrew Amendment No. 1 to advance notice SR–FICC–2014–810 due to an error in filing the amendment. FICC filed Amendment No. 2 to advance notice SR–FICC–2014–810 in order to provide additional description of the changes proposed in the advance notice.

of DTCC (''Common Shares'') among users of the Operating Subsidiaries, which are DTCC's registered clearing agency subsidiaries, and to determine the purchase price of Common Shares for purposes of such allocations and other transfers of Common Shares; (2) provide for the requirement to purchase newly-issued Common Shares by holders of Common Shares (''Common Share Holders'') that are required to purchase and own Common Shares (''Mandatory Share Holders''), subject to the approval of Mandatory Share Holders holding two-thirds of all Common Shares held by Mandatory Share Holders; (3) provide for the repurchase of Common Shares from Mandatory Share Holders by DTCC, in an aggregate amount up to the aggregate amount of all newly-issued Common Shares purchased by Mandatory Share Holders; (4) provide for the reallocation of entitlements to own Common Shares at least once every three calendar years, but not otherwise limiting the frequency of such reallocation; and (5) make other conforming and technical changes as described below and as shown on Exhibit 3 to this filing.[5] Common Share Holders which are permitted but not required to purchase and own Common Shares (''Voluntary Share Holders'') would not be required to purchase any newly-issued Common Shares or to sell any Common Shares to DTCC in connection with such a repurchase.

The proposed changes to the Existing Shareholders Agreement are the product of a comprehensive review by DTCC of its ownership, governance and capital structure, undertaken for the purposes of increasing the financial resources available to support the conduct of the businesses of the Operating Subsidiaries and enhancing regulatory risk management.[6] The proposed amendments are subject to the non-objection of the Commission to the Advance Notices as well as the consent of the Common Share Holders.

Existing Shareholders Agreement. Pursuant to the Existing Shareholders Agreement and the rules of each of the Operating Subsidiaries,[7] certain members and participants are required to be Mandatory Share Holders and parties to the Existing Shareholders Agreement; certain members and participants are permitted, but not required, to be Voluntary Share Holders and parties to the Existing Shareholders Agreement; and certain members and participants are not permitted to purchase and own Common Shares or become parties to the Existing Shareholders Agreement.

Section 2.01 of the Existing Shareholders Agreement provides for the periodic reallocation of Common Shares in order to accommodate changes in the users of the Operating Subsidiaries and changes in the users' use of the services and facilities of the Operating Subsidiaries. Entitlements to purchase and own Common Shares are reallocated no more frequently than once a year and no less frequently than once every three years. Such a reallocation is, in every case, based on relative use of the services and facilities of the Operating Subsidiaries over the period since the last reallocation.[8] In each reallocation, users (whether or not they are already Common Share Holders) that are permitted but not required to purchase and own Common Shares (''Voluntary Purchaser Participants'') may purchase Common Shares in amounts commensurate with their use of the services and facilities of the Operating Subsidiaries. Users (whether or not they are already Common Share Holders) that are required to purchase and own Common Shares (''Mandatory Purchaser Participants'') must purchase and own Common Shares in amounts (i) commensurate with their use of the services and facilities of the Operating Subsidiaries plus (ii) a pro-rata amount of any Common Shares that Voluntary Purchaser Participants have a right to purchase but do not elect to purchase. In each reallocation, each Common Share Holder (whether a Voluntary Purchaser Participant or a Mandatory Purchaser Participant) that owns more Common Shares than its share entitlement has the obligation to sell its excess Common Shares so that such Common Shares may be reallocated to Voluntary Purchaser Participants that elect to purchase Common Shares and Mandatory Purchaser Participants that are required to purchase Common Shares, in accordance with their entitlements.

Under the Existing Shareholders Agreement, the formula used to calculate entitlements for this periodic reallocation of Common Shares takes into account fees paid to the Operating Subsidiaries, as well as the average market value of securities held in custody at DTC (referred to as ''DTC long positions'') by the applicable user, in each case, over the relevant reallocation period. Additionally, the purchase price of each Common Share, which is calculated annually, is determined by a formula based on the book value of DTCC less a portion of the retained earnings of the Operating Subsidiaries.

The Existing Shareholders Agreement further provides that Common Share Holders have the right to elect all of the directors of DTCC (other than two directors elected by the holders of the shares of existing preferred stock of DTCC), and to vote on all other matters on which shareholders are entitled to vote. The Existing Shareholders Agreement further provides that a person elected as a director of DTCC also serves as a director of each of the Operating Subsidiaries, coordinating governance of DTC, NSCC, and FICC with their parent company, DTCC.

Proposed Amendments to the Existing Shareholders Agreement. The Revised Shareholders Agreement would: (1) Remove the DTC long positions from the formula used to determine the allocation of entitlements to purchase Common Shares; (2) revise the formula for determining the purchase price of Common Shares to reflect the tangible book value of DTCC and eliminate any deduction of the retained earnings of the Operating Subsidiaries; (3) provide for the purchase of newly-issued Common Shares by Mandatory Share Holders, subject to the approval of Mandatory Share Holders holding two-thirds of all outstanding Common Shares held by Mandatory Share Holders; (4) provide for the repurchase of Common Shares from Mandatory Share Holders by DTCC, in an aggregate amount up to the aggregate amount of all newly-issued Common Shares purchased by Mandatory Share Holders; (5) provide for the reallocation of entitlements to own Common Shares at least once every three calendar years, but not otherwise limiting the frequency of such reallocation; and (6) make other conforming and technical changes as

[5] Commission notes that Exhibit 3 to the Advance Notices was filed confidentially by the Operating Subsidiaries and is not attached to this notice.

[6] On July 18, 2012, the Financial Stability Oversight Council (''FSOC'') designated each of the Operating Subsidiaries a systemically important financial market utility under Title VIII of the Clearing Supervision Act. *See* FSOC 2012 Annual Report, Appendix A, *available at http://www.treasury.gov/initiatives/fsoc/Documents/2012%20Annual%20Report.pdf.* Therefore, each of the Operating Subsidiaries is required to comply with the enhanced regulatory supervision and risk-management requirements under the Clearing Supervision Act.

[7] *See* DTC Rule 31 (DTCC Shareholders Agreement); NSCC Rule 64 (DTCC Shareholders Agreement); Mortgage-Backed Securities Division of FICC (''MBSD'') Rule 39 (DTCC Shareholders Agreement); and Government Securities Division of FICC (''GSD'') Rule 49 (DTCC Shareholders Agreement), *available at http://dtcc.com/legal/rules-and-procedures.aspx.*

[8] Additionally, and separately from the periodic reallocation, Common Shares are redistributed from time to time to Common Share Holders pursuant to Section 2.02 of the Existing Shareholders Agreement as a result of member retirements.

described below and as shown on Exhibit 3 to this filing.

(1) Update Common Share Allocation Formula

The formula used to periodically reallocate entitlements to purchase Common Shares, defined in Section 1.01 of the Existing Shareholders Agreement as the ''Common Share Amount,'' is historical and, in the view of DTCC, no longer an appropriate measure of use of the Operating Subsidiaries.

The Common Share Amount calculation was based on the Shareholders Agreement of DTC, which was in effect before DTC became a subsidiary of DTCC in 1999. It was adopted to balance the interests of custodian banks with other types of users of DTC, including broker-dealers, that did not hold securities inventory at DTC but paid transactional fees for services. The current formula provides that (i) 80% of the entitlement to purchase Common Shares is based on the amount of fees paid by a user to the Operating Subsidiaries during the period starting on the first day of the calendar year in which the previous allocation was made and ending on the last day of the calendar year preceding the calendar year in which the allocation is to be made (''Allocation Period''), and (ii) the remaining 20% of the entitlement is based on the average market value of all securities credited to the DTC account of that user, *i.e.,* its DTC long positions, as of the end of the last business day of each month during the Allocation Period.

Today, all users of the three Operating Subsidiaries pay fees to one or more of the Operating Subsidiaries based on usage of the services and facilities of the Operating Subsidiaries, including fees for DTC long positions. Accordingly, DTCC has determined that it is no longer appropriate to factor into the calculation of share entitlements both the market value of DTC long positions and fees paid to DTC in respect of such DTC long positions. The Revised Shareholders Agreement would update the formula used to periodically reallocate entitlements to purchase Common Shares, defined in Section 1.01 of the Revised Shareholders Agreement as the ''Common Share *Allocation* Amount,'' to eliminate the market value of DTC long positions, so that the formula would be based solely on fees paid to the Operating Subsidiaries.

Both the composition of users of the Operating Subsidiaries as well as the users' use of the services and facilities of the Operating Subsidiaries have changed over time, and today the consistent metric for measuring such use across the Operating Subsidiaries is fees paid. Therefore, and in order to ensure that the allocations of entitlements to purchase Common Shares continue to be proportionate to the use of the Operating Subsidiaries, DTCC is proposing to update the formula by removing the market value of DTC long positions, and basing the allocations entirely on fees paid to the Operating Subsidiaries. While custodian banks with securities holdings at DTC may be entitled (and required) to purchase fewer Common Shares as a result of this proposal, those Common Shares would be re-allocated to other Common Share Holders proportionally. The proposal would adjust the overall shareholding of Common Shares so that it is based on a uniform metric across the Operating Subsidiaries that is representative of the current use of the Operating Subsidiaries.

(2) Amendment of Common Share Price Formula

As described below, two amendments are proposed to the formula for the purchase price of Common Shares. First, the deduction of a portion of retained earnings, a vestige of the historical development of DTCC, would be eliminated. Second, instead of full book value, the basis of the revised formula would be the tangible book value of DTCC. With these changes, the value of Common Shares for purchases, sales, and transfers should more closely reflect the liquidation value of the enterprise.

Under Section 1.01 of the Existing Shareholders Agreement, the price of Common Shares, the ''Common Share Price,'' is defined by a formula that excludes a portion of the retained earnings of the Operating Subsidiaries from DTCC's book value. The Common Share Price is the price used (i) in connection with purchases and sales of Common Shares among Voluntary Purchaser Participants and Mandatory Purchaser Participants in the periodic reallocation of Common Shares and (ii) in connection with the transfer of the Common Shares of retiring or disqualified Common Share Holders. The Revised Shareholders Agreement would replace the formula contained in the Existing Shareholders Agreement with a formula designed to reflect the tangible book value of DTCC, *i.e.,* the full book value of DTCC less intangible items of book value (goodwill and intangible assets) and the liquidation preference of the preferred stock of DTCC.[9]

When DTC and NSCC became subsidiaries of DTCC, the DTC shareholders who were DTC participants exchanged their DTC shares for DTCC Common Shares and became Common Share Holders. At that time, no members of NSCC (''NSCC Members'') were NSCC shareholders, so no NSCC Members became Common Share Holders. NSCC Members were first given the opportunity to purchase Common Shares in the year 2000 share reallocation. It was considered unfair double-counting for NSCC Members to purchase DTCC Common Shares in that share reallocation at a price augmented by the retained earnings of NSCC. For this reason, the retained earnings of NSCC were deducted from DTCC's book value in determining the price of Common Shares. When Government Securities Clearing Corporation and MBS Clearing Corporation (later merged to become FICC) became subsidiaries of DTCC in 2002, this construct was continued. Under the Existing Shareholders Agreement, the price of Common Shares is determined by deducting the aggregate amount of the retained earnings of each of the Operating Subsidiaries (although the deduction of DTC retained earnings is limited to $24,007,000, an amount representing the retained earnings of DTC as of December 31, 2001) from the book value of the Common Shares as of December 31 of the preceding calendar year.

As stated, the deduction of the retained earnings of the Operating Subsidiaries in this formula was intended to be a one-time adjustment to address unfairness to the participants of the Operating Subsidiaries that was tied to the corporate transactions through which each Operating Subsidiary was integrated into the DTCC family. Therefore, with the passage of time and the turnover in participants, the deduction no longer serves this historical purpose, or any purpose, in the reallocations of entitlements to purchase Common Shares that occurred after the integration of the Operating Subsidiaries. The proposed change is a part of the effort to update the Existing Shareholders Agreement.

In the Revised Shareholders Agreement, the formula for the purchase price of Common Shares would be based on the tangible book value of

[9] Intangible items of book value used in this calculation, *i.e.,* goodwill and intangible assets, are shown on DTCC's Consolidated Statement of Financial Condition, which is available on the DTCC Web site at *http://dtcc.com/legal/financial-statements.aspx.*

DTCC, a price that would more accurately represent the liquidation value of DTCC, and keep the price more stable and predictable over time. While the proposal may cause the purchase price of Common Shares to increase somewhat, it should not materially impair the ability of the members and participants of the Operating Subsidiaries to acquire Common Shares.

(3) Raise Capital Through the Issue and Sale of Newly-Issued Common Shares to Mandatory Share Holders

In order to raise capital for business purposes, the Revised Shareholders Agreement would provide that DTCC may sell newly-issued Common Shares to Mandatory Share Holders on a mandatory basis. Proceeds of the sale of these newly-issued Common Shares would be contributed by DTCC to the Operating Subsidiaries as capital as needed so that the Operating Subsidiaries may continue to provide efficiently for the prompt and accurate clearance and settlement of securities transactions in U.S. securities markets. Each issuance and required purchase of Common Shares for this purpose would be subject to the approval of the Mandatory Share Holders holding two-thirds of all Common Shares held by Mandatory Share Holders. Voluntary Share Holders would not be required or permitted to purchase these newly-issued Common Shares.

The Operating Subsidiaries require additional capital to support their business operations. Historically, they have operated on an at-cost or near-cost basis and rebated any excess revenues to users of their services. Recently, however, the Operating Subsidiaries have experienced a greater need to increase capital to meet higher operating costs and, as systemically important financial market utilities, to satisfy heightened risk management requirements. DTCC has performed extensive analyses to determine these needs, and has considered alternative means to address them. A principal objective is maintenance of sufficient, readily available, liquid net assets to allow the Operating Subsidiaries to meet current and projected operating requirements under a range of scenarios, including adverse market conditions. An increase in fees was deemed impractical because it would not necessarily generate sufficient resources in a reasonable time frame and depends on transactional volumes, which may be volatile. DTCC was also concerned with the financial burden that significant fee increases could place on users over an extended period.

As a user-owned and governed organization, DTCC does not have access to public markets to raise common equity. Accordingly, the Revised Shareholders Agreement would contain a mechanism to provide DTCC with the ability to raise capital by selling newly-issued Common Shares to Mandatory Share Holders on a mandatory basis, pro rata in accordance with their shareholdings at the time of such sale. As the principal users of the services and facilities of the Operating Subsidiaries, Mandatory Share Holders benefit directly from the critical clearance and settlement services provided by the Operating Subsidiaries. Importantly, the mechanism would only be exercised with the approval of Mandatory Share Holders holding two-thirds of all Common Shares held by Mandatory Share Holders. Therefore, the implementation of this mechanism for any particular amount of capital or number of Common Shares, at any time, would require a vote of the Mandatory Share Holders.

(4) Mandatory Repurchase of Common Shares

The Revised Shareholders Agreement would also provide a mechanism under which DTCC may repurchase Common Shares from Mandatory Share Holders on a mandatory basis in an aggregate amount up to the aggregate amount of all newly-issued Common Shares purchased by Mandatory Share Holders. This would be at the discretion of the DTCC Board of Directors (which includes all the same directors as the Boards of DTC, NSCC, and FICC), to allow flexibility to return funds to Mandatory Share Holders if the Operating Subsidiaries have capital in excess of their capital needs.

(5) Frequency of Reallocation of Already-Issued Common Shares

The Revised Shareholders Agreement would provide that the reallocation of entitlements to own already issued Common Shares may take place when determined by the DTCC Board of Directors, but no less frequently than once every three calendar years. While the Existing Shareholders Agreement restricts DTCC from performing this reallocation more frequently than once a year, the proposed change would remove this restriction in order to allow more frequent reallocations, when appropriate. Each reallocation aligns a Common Share Holder's entitlements to own already issued Common Shares with that firm's use of the Operating Subsidiaries. This update will permit these alignments to take place more frequently and ownership of Common Shares can be a more contemporaneous reflection usage.

(6) Other Conforming and Technical Amendments to the Existing Shareholders Agreement

The Revised Shareholders Agreement would also include certain other technical amendments, including conforming and clarifying changes, as reflected on Exhibit 3 to this filing. Among those changes is an amendment to the definition of ''Common Share Amount'' in Section 1.01 of the Existing Shareholders Agreement (called the ''Common Share *Allocation* Amount'' in the Revised Shareholders Agreement), to clarify that the calculation does not include any fees that are pass-through fees, *i.e.,* amounts collected by an Operating Subsidiary for the account of a third party and paid by that Operating Subsidiary to a third party.

The definition of ''Settlement'' in Section 1.01 of the Existing Shareholders Agreement will also be amended to move the time at which settlement is effected from 5:00 p.m. New York City Time on the Settlement Date, as such terms are defined in the Existing Shareholders Agreement, to 4:00 p.m. New York City Time on the Settlement Date. This is an operational change in order to align Common Share settlement times with the routine times of end of day settlement for each of the Operating Subsidiaries.

A further clarifying amendment would include members of MBSD, other than Cash-Settling Bank Members (as such term is defined in the Rules of MBSD), within the definition of ''Mandatory Purchaser Participants.'' As a result of the Commission's approval in 2012 of FICC becoming a central counterparty for transactions processed and cleared at its mortgage-backed securities division, the change would apply to the users of MBSD the general rule that full service members, including users of guaranteed services, of an Operating Subsidiary are Mandatory Purchaser Participants.

The Revised Shareholders Agreement would also amend the definition of ''Qualified Person,'' which sets forth the types of entities that may hold Common Shares, to exclude: (1) Federal Reserve Banks, because it was never intended that such governmental authorities should be required to own shares in DTCC, notwithstanding that they may use certain services of the Operating Subsidiaries; (2) central counterparties or central securities depositories, because these link arrangements are for the purpose of extending clearing agency services across borders or among closely related activities and products

but not for ownership purposes; and (3) any other financial market infrastructure or utility that the DTCC Board of Directors determines shall not be a ''Qualified Person.'' The Revised Shareholders Agreement would also update the definition of ''Deliver'' to include more convenient and contemporary methods of delivering notices, for example, by electronic mail where appropriate. Finally, Section 2.02 is proposed to be updated regarding the transfer of Common Shares in the event that a Common Share Holder is no longer a Qualified Person, to provide that the pro-rata re-distribution of those Common Shares to all other Common Share Holders take place at the beginning of the following calendar year rather than contemporaneously with such Common Share Holder ceasing to be a Qualified Person, as provided in the Existing Shareholders Agreement. This change reflects current practice and is more practical, administratively.

Anticipated Effect on and Management of Risk

The DTCC Board of Directors unanimously approved the proposed amendments described in this filing. In evaluating these proposals, the Board carefully considered the expectations and obligations that are imposed on the Operating Subsidiaries as systemically important financial market utilities in the national system for clearance and settlement of securities transactions. The proposed changes would reduce the risks presented by the Operating Subsidiaries. The proposed change to the formula used to reallocate entitlements to purchase Common Shares would bring this methodology up to date so that the allocation accurately reflects the use of the services and facilities of the Operating Subsidiaries. The proposal to update the formula used to determine the price of Common Shares would provide an updated pricing approach, eliminating historical adjustments that are no longer relevant and providing a price based on tangible book value. The proposal to provide for the issuance of additional Common Shares by DTCC, subject to shareholder approval, for required purchase by Mandatory Share Holders, would provide a necessary source of capital for the protection of the Operating Subsidiaries, their members, and the financial markets in which they operate. The proposal also includes a mechanism under which DTCC may repurchase Common Shares from Mandatory Share Holders on a mandatory basis, at the discretion of the DTCC Board of Directors, so that funds may be returned to Mandatory Share Holders that furnished additional capital through this mechanism, for example, if, and when, there is excess capital.

Section 805(b) of the Clearing Supervision Act states that the objectives and principles for the risk management standards prescribed under Section 805(a) shall be to promote robust risk management, promote safety and soundness, reduce systemic risks, and support the stability of the broader financial system.[10] The proposal represents a fair and appropriate apportionment of the business risks of the Operating Subsidiaries among their users, and would allow DTCC to raise capital for the Operating Subsidiaries in order to continue to carry on their businesses in an efficient and effective manner, thereby promoting safety and soundness of the operations of the Operating Subsidiaries, reducing their general business risks as well as systemic risk, and supporting stability in the U.S. securities markets and the broader financial system. Additionally, the provision for DTCC, subject to Mandatory Share Holder approval, to sell newly-issued Common Shares to Mandatory Share Holders is critical to the capitalization of the Operating Subsidiaries. Maintenance of adequate financial resources is a key element in reducing systemic risk, and serves to limit the contagion that could flow from an isolated disruption to the wider financial markets. In this way, the proposal to raise capital would also reduce systemic risk and serves to promote the prompt and accurate clearance and settlement of securities transactions and the protection of investors, particularly in times of market stress or crisis. The proposed provision that would allow for the repurchase of Common Shares from Mandatory Share Holders at the discretion of the DTCC Board of Directors protects Mandatory Share Holders by returning funds to those firms, for example, if, and when, there is excess capital.

Finally, the proposal to allow DTCC to reallocate entitlements to own Common Shares more frequently than once every year allows DTCC to align ownership of Common Shares with Common Share Holders' usage of the Operating Subsidiaries on a more contemporaneous basis, when appropriate. This proposed change reduces the risk that Common Share Holders own Common Shares that are no longer proportionate to their current use of the Operating Subsidiaries.

[10] 12 U.S.C. 5461(a), (b).

Implementation Timeframe. The Revised Shareholders Agreement would become effective (1) upon the approval of the Common Share Holders; and (2) if the Commission does not object to the Advance Notices within 60 days of the later of (i) the date the Commission receives the Advance Notices, or (ii) the date the Commission receives any further information it requests for consideration of the Advance Notices.

III. Date of Effectiveness of the Advance Notices, and Timing for Commission Action

The proposed change may be implemented if the Commission does not object to the proposed change within 60 days of the later of (i) the date that the proposed change was filed with the Commission or (ii) the date that any additional information requested by the Commission is received. The Operating Subsidiaries shall not implement the proposed change if the Commission has any objection to the proposed change.

The Commission may extend the period for review by an additional 60 days if the proposed change raises novel or complex issues, subject to the Commission providing the Operating Subsidiaries with prompt written notice of the extension. A proposed change may be implemented in less than 60 days from the date the Advance Notices were filed, or the date further information requested by the Commission is received, if the Commission notifies the Operating Subsidiaries in writing that it does not object to the proposed change and authorizes the Operating Subsidiaries to implement the proposed change on an earlier date, subject to any conditions imposed by the Commission.

The Operating Subsidiaries shall post notice on DTCC's Web site of proposed changes that are implemented.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the Advance Notices are consistent with the Clearing Supervision Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–FICC–2014–810, SR–NSCC–2014–811 or SR–DTC–2014–812 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–FICC–2014–810, SR–NSCC–2014–811 or SR–DTC–2014–812. One of these file numbers should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the Advance Notices that are filed with the Commission, and all written communications relating to the Advance Notices 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 Operating Subsidiaries and on DTCC's Web site at *http://dtcc.com/legal/sec-rule-filings.aspx.* All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–FICC–2014–810, SR–NSCC–2014–811 or SR–DTC–2014–812 and should be submitted on or before January 2, 2015.

By the Commission.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–29005 Filed 12–10–14; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–73762; File No. SR–FINRA–2014–050]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing of a Proposed Rule Change To Amend TRACE Rules To Require Members To Identify Transactions With Non-Member Affiliates and To Change How FINRA Disseminates a Subset of Such Transactions

December 5, 2014.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] notice is hereby given that on November 21, 2014, Financial Industry Regulatory Authority, Inc. (''FINRA'') 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 FINRA. 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

FINRA is proposing to amend the FINRA Rule 6700 Series (Trade Reporting and Compliance Engine (TRACE)) to require members to identify transactions with non-member affiliates, and to change how FINRA disseminates a specific subset of these transactions.

The text of the proposed rule change is available on FINRA's Web site at *http://www.finra.org,* at the principal office of FINRA 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, FINRA 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. FINRA has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

FINRA is amending the TRACE rules: (1) To add a new contra-party type to be used in TRACE reports to identify transactions with non-member affiliates, and (2) to require firms to identify when transactions with non-member affiliates meet specified conditions, so that FINRA can suppress dissemination of those trades.

FINRA Rule 6730 (Transaction Reporting) sets forth the requirements applicable to members for reporting transactions in TRACE-Eligible Securities.[3] Rule 6730(c) (Transaction Information To Be Reported) describes the items of information that must be included in a TRACE trade report. Among other things, members must identify the other side (*i.e.,* contra-party or counterparty) for each transaction.[4] Where the contra-party is a FINRA member, the reporting member must provide the contra-party's designated Market Participant ID (''MPID'') in the trade report. All other contra-parties (including non-member affiliates) can only be identified as a ''customer'' when reporting the transaction to TRACE.

FINRA is proposing to amend Rule 6730 to introduce a new contra-party type to identify non-member affiliates of the member reporting the trade, and to disseminate publicly this contra-party identifier.[5] Currently, as noted above, when a member engages in a transaction with a non-member affiliate, that transaction is reported by the member as a trade with a customer. Thus, the proposal would provide FINRA and market participants with additional identifying information regarding the

[3] Rule 6710 generally defines a ''TRACE-Eligible Security'' as: (1) A debt security that is U.S. dollar-denominated and issued by a U.S. or foreign private issuer (and, if a ''restricted security'' as defined in Securities Act Rule 144(a)(3), sold pursuant to Securities Act Rule 144A); or (2) a debt security that is U.S. dollar-denominated and issued or guaranteed by an ''Agency'' as defined in Rule 6710(k) or a ''Government-Sponsored Enterprise'' as defined in Rule 6710(n).

[4] FINRA Rule 6730(c)(6) provides that each TRACE trade report shall contain the contra-party's identifier.

[5] The proposed rule change would add a new definition to Rule 6710 to define ''non-member affiliate'' as a non-member entity that controls, is controlled by or is under common control with a member. For the purposes of this definition, ''control,'' along with any derivative thereof, means legal, beneficial, or equitable ownership, directly or indirectly, of 25 percent or more of the capital stock (or other ownership interest, if not a corporation) of any entity ordinarily having voting rights. The term ''common control'' means the same natural person or entity controls two or more entities.

contra-party in the case of member trades with non-member-affiliates.[6]

FINRA also proposes to require members to identify a narrow subset of transactions with non-member affiliates. Specifically, a member would need to flag transactions between itself and a non-member affiliate: (1) Where both parties are trading for their own account, and (2) where the transaction with the non-member affiliate occurs within the same day, at the same price and in the same security as a transaction engaged in by the member with a different counterparty. Identification of these transactions by members would enable FINRA to suppress the transactions from dissemination on the tape, which is desirable because they are not economically distinct transactions and provide the same pricing information as the disseminated transaction between the member and the other contra-party to the trade.

The undesirability of disseminating these trades is illustrated by the following example. Firm A, a FINRA member, acquires a position in a TRACE-Eligible Security from another dealer, which Firm A reports for dissemination by TRACE. Firm A may choose to hold this security at a non-member affiliate, which it accomplishes by a back-to-back trade to the affiliate on the same terms as it acquired the security. Currently, this back-to-back trade with the affiliate would also be reported by the member for dissemination by TRACE. FINRA believes that only one of the trade reports related to this overall transaction should be disseminated—specifically, the transaction between the member and the other dealer, but not the trade between the member and its non-member affiliate. Dissemination of the transaction between the member and its non-member affiliate does not provide users of the disseminated data with useful information for pricing, valuation or risk evaluation purposes.

FINRA would only suppress dissemination where a member purchases or sells a security and then, within the same trading day, engages in a back-to-back trade with its non-member affiliate in the same security at the same price. Because the trade of the security between the member and its non-member affiliate represents a change in beneficial ownership between different legal entities, it is a reportable transaction and is publicly disseminated under the current rule. However, the fact that the trade occurs with a non-member affiliated entity, during the same day and at the same price (no commission or mark-up was assessed) is indicia that the transaction is not an arms-length trade and, therefore, does not constitute the type of transaction that adds value to the tape.

FINRA believes the proposal will improve the information currently received for regulatory purposes by providing additional information on the relationship between parties to a trade. For example, knowledge of a contra-party's status as a non-member affiliate of the reporting member would be useful in FINRA's regulatory program, which is reliant upon the completeness and accuracy of the information members report to TRACE. For example, the proposed rule change would support the operation of the patterns that surveil for pre-arranged trading, best execution, parking and fair pricing. Thus, FINRA expects that the addition of the non-member affiliate contra-party identifier will facilitate a more effective program and reduce the number of false-positive alerts from surveillance patterns and regulatory inquiries from FINRA to member firms. FINRA also believes the rule change will improve the quality of the information disseminated for transparency purposes by suppressing transaction reports that are not economically distinct from a separately reported (and disseminated) leg, and by disseminating a new contra-party identifier in all cases when a trade is with a non-member affiliate.

FINRA staff discussed the proposal with advisory committees in developing its approach. These parties were supportive of the proposal, believing that it would improve the value of the information submitted to the tape by reducing the instances in which duplicative trade information is disseminated publicly. Members of the committees also did not express any particular concerns with respect to the operational impacts or costs of the proposal. Further discussions with firms that would be directly impacted by the proposal also indicated that the proposal to suppress dissemination of these trades would be beneficial to market participants, and that the necessary technological changes would not be unduly burdensome given an adequate implementation timeframe.

FINRA will announce the implementation date of the proposed rule change in a *Regulatory Notice* to be published no later than 60 days following Commission approval. The implementation date will be no later than 90 days following publication of the *Regulatory Notice* announcing Commission approval.

2. Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,[7] which requires, among other things, that FINRA rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest.

As discussed above, FINRA believes the proposal would result in improved disseminated transaction information for TRACE-Eligible Securities by reducing the instances in which trade information for duplicative, non-economic trades is disseminated publicly. Under the proposal, TRACE reports also would include more specific contra-party information by adding an additional contra-party type to identify non-member affiliates that would be used by FINRA for regulatory purposes and disseminated to investors and market participants. Thus, FINRA believes that the proposed rule change would enhance transparency by suppressing trade reports on transactions that are not economically distinct from a separately reported (and disseminated) leg, and the regulatory audit trail by providing additional granularity regarding the reporting firm's relationship with its contra-party.

B. Self-Regulatory Organization's Statement on Burden on Competition

FINRA does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. While the proposal would require firms to implement changes to identify covered transactions with a non-member affiliate, FINRA does not believe these changes would impose differential costs on similarly situated firms. Discussions with members indicate that, so long as sufficient implementation time is provided to make the necessary technological changes, the proposed rule change would not be unduly burdensome, given its benefits to transparency. In addition to the benefits to public transparency, the non-member affiliate contra-party identifier will facilitate a more effective regulatory program by allowing FINRA further insight into whether a member's

[6] The proposal would not change the way that FINRA members report trades with affiliates that also are FINRA members; the reporting member would continue to identify the contra-party by MPID. FINRA believes that trades between members generally are arms-length, even if the member firms are affiliated. Furthermore, it is important for audit trail and surveillance purposes to obtain the MPID of all member contra-parties in submitted trade reports.

[7] 15 U.S.C. 78*o*–3(b)(6).

transaction is arms-length. In addition, FINRA anticipates the proposal would result in a reduction in the number of false-positive alerts from surveillance patterns and fewer regulatory inquiries from FINRA to member firms.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

FINRA has not solicited, and does not intend to solicit, comments on this proposed rule change. FINRA has not received any written comments from members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

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 self-regulatory organization consents, the Commission will:

(A) By order approve or disapprove such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–FINRA–2014–050 on the subject line.

Paper Comments

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549.

All submissions should refer to File Number SR–FINRA–2014–050. 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 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 FINRA. 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–FINRA–2014–050 and should be submitted on or before January 2, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[8]

Brent J. Fields,

Secretary.

[FR Doc. 2014–29013 Filed 12–10–14; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–73757; File No. SR–ISE–2014–55]

Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Extend the Penny Pilot Program

December 5, 2014.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Exchange Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on December 1, 2014, the International Securities Exchange, LLC (the ''Exchange'' or the ''ISE'') filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The ISE proposes to amend its rules relating to a pilot program to quote and to trade certain options in pennies (''Penny Pilot Program''). The text of the proposed rule change is available on the Exchange's Web site *www.ise.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections A, B and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Under the Penny Pilot Program, the minimum price variation for all participating options classes, except for the Nasdaq-100 Index Tracking Stock (''QQQQ''), the SPDR S&P 500 Exchange Traded Fund (''SPY'') and the iShares Russell 2000 Index Fund (''IWM''), is $0.01 for all quotations in options series that are quoted at less than $3 per contract and $0.05 for all quotations in options series that are quoted at $3 per contract or greater. QQQQ, SPY and IWM are quoted in $0.01 increments for all options series. The Penny Pilot Program is currently scheduled to expire on December 31, 2014.[3] The Exchange proposes to extend the time period of the Penny Pilot Program through June 30, 2015, and to provide revised dates for adding replacement issues to the Penny Pilot Program. The Exchange proposes that any Penny Pilot Program issues that have been delisted may be replaced on the second trading day following January 1, 2015. The replacement issues will be selected based on trading activity for the six

[8] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Exchange Act Release No. 72279 (May 29, 2014), 79 FR 32354 (June 4, 2014) (SR–ISE–2014–29).

month period beginning June 1, 2014, and ending November 30, 2014. This filing does not propose any substantive changes to the Penny Pilot Program: All classes currently participating will remain the same and all minimum increments will remain unchanged. The Exchange believes the benefits to public customers and other market participants who will be able to express their true prices to buy and sell options have been demonstrated to outweigh the increase in quote traffic.

2. Statutory Basis

The basis under the Securities Exchange Act of 1934 (the ''Exchange Act'') for this proposed rule change is found in Section 6(b)(5), in that the proposed rule change is designed to promote just and equitable principles of trade, remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest. In particular, the proposed rule change, which extends the Penny Pilot Program for an additional six months, will enable public customers and other market participants to express their true prices to buy and sell options for the benefit of all market participants.

B. Self-Regulatory Organization's Statement on Burden on Competition

This proposed rule change does not impose any burden on competition. Specifically, the Exchange believes that, by extending the expiration of the Penny Pilot Program, the proposed rule change will allow for further analysis of the Penny Pilot Program and a determination of how the Penny Pilot Program should be structured in the future. In doing so, the proposed rule change will also serve to promote regulatory clarity and consistency, thereby reducing burdens on the marketplace and facilitating investor protection.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any written comments from members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not significantly affect the protection of investors or the public interest, does not impose any significant burden on competition, and, by its terms, does not become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act [4] and Rule 19b–4(f)(6) thereunder.[5] The Exchange provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing the proposed rule change as required by Rule 19b–4(f)(6).

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Exchange 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 Exchange Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form *http://www.sec.gov/rules/sro.shtml);* or
- Send an Email to *rule-comments@sec.gov.* Please include File No. SR–ISE–2014–55 on the subject line.

Paper Comments

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–ISE–2014–55. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commissions Internet Web site (*http://www.sec.gov/rules/sro.shtml).* Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00am and 3:00pm. Copies of such filing also will be available for inspection and copying at the principal office of the ISE. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–ISE–2014–55 and should be submitted by January 2, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[6]

Brent J. Fields,

Secretary.

[FR Doc. 2014–29012 Filed 12–10–14; 8:45 am]

BILLING CODE 8011–01–P

[4] 15 U.S.C. 78s(b)(3)(A).

[5] 17 CFR 240.19b–4(f)(6).

[6] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–73749; File No. SR–OCC–2014–810]

Self-Regulatory Organizations; The Options Clearing Corporation; Notice of Filing of Advance Notice Concerning Modifications To Back Testing Procedures in Order To Enhance Monitoring of Margin Coverage and Model Risk Exposure

December 5, 2014.

Pursuant to Section 806(e)(1) of Title VIII of the Dodd-Frank Wall Street Reform and Consumer Protection Act entitled the Payment, Clearing, and Settlement Supervision Act of 2010 [1] (''Payment, Clearing and Settlement Supervision Act'') and Rule 19b–4(n)(1)(i) under the Securities Exchange Act of 1934 [2] notice is hereby given that on November 13, 2014, The Options Clearing Corporation (''OCC'') filed with the Securities and Exchange Commission (''Commission'') the advance notice as described in Items I and II below, which Items have been

[1] 12 U.S.C. 5465(e)(1).

[2] 17 CFR 240.19b–4(n)(1)(i).

prepared by OCC.[3] The Commission is publishing this notice to solicit comments on the advance notice from interested persons.

I. Clearing Agency's Statement of the Terms of Substance of the Advance Notice

This advance notice is filed by OCC in connection with a proposed change to its operations (the ''Change'') in the form of modifications to its back testing procedures in order to enhance its monitoring of margin coverage and model risk exposure.

II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Advance Notice

In its filing with the Commission, OCC included statements concerning the purpose of and basis for the advance notice and discussed any comments it received on the advance notice. The text of these statements may be examined at the places specified in Item IV below. OCC has prepared summaries, set forth in sections (A) and (B) below, of the most significant aspects of these statements.

(A) Clearing Agency's Statement on Comments on the Advance Notice Received From Members, Participants or Others

Written comments on the advance notice were not and are not intended to be solicited with respect to the advance notice and none have been received.

(B) Advance Notices Filed Pursuant to Section 806(e) of the Payment, Clearing and Settlement Supervision Act

Description of Change

The proposed Change would modify OCC's back testing procedures in order to enhance its monitoring of margin coverage and model risk exposure. Such monitoring would allow OCC to identify and make improvements to its margin methodology and enhance OCC's ability to manage risk.

OCC has implemented back testing procedures in order to test its methodology for determining the amount of margin to collect from clearing members and validate the assumptions and mechanisms inherent in its methodology and to make any necessary changes to the methodology. Each trading day, OCC estimates the risk on accounts and uses this estimate as a basis for each account's margin charge. On the following business day, OCC's back tests compare an account's observed profit and loss (''P&L'') with the prior day's estimated risk using a variety of analytical and statistical tools. These daily tests measure the performance of the account's risk measures, and therefore, also measure the performance of OCC's underlying methodology for calculating these measures. OCC's back testing program enables OCC to assess performance of its margining systems and determine whether financial risks are adequately or inadequately captured by the quantitative models in use.

Currently, OCC employs the ''traffic light'' test published by the Basel Committee on Banking Supervision in 1996 (the ''Traffic Light Test'').[4] In conducting the Traffic Light Test, OCC determines the actual number of instances in which the realized loss on an account exceeded the margin, known as an ''exceedance,'' over an observation period of one year. The number of exceedances during the observation period is compared against the number of expected exceedances that are independent and identically distributed over time. OCC will employ an enhanced version of the Traffic Light Test that takes into account the dependency of exceedances between accounts.

OCC has conducted daily back testing of margin accounts since 2006. OCC's staff analyzes the exceedances and makes monthly reports to OCC's Enterprise Risk Management Committee (''ERMC'').[5] The reports to the ERMC include pertinent conclusions based on results from the full set of back tests. When back testing reveals the potential opportunity for remediation of OCC's margin methodology, OCC undertakes a root cause analysis to determine the cause of any issues. Any significant failures of OCC's methodology lead to OCC undertaking a model improvement project designed to correct the problems.

OCC has analyzed its back testing program and identified several enhancements to the program. The following section details the nature of the proposed enhancements.[6]

1. Proposed Enhancement of and Increase in Statistical Tests

The proposed changes would enhance existing statistical tests and add three new statistical tests. The first proposed change to OCC's back testing program is that OCC proposes to enhance the Traffic Light Test so that it may be applied to exceedances across all of OCC's margin accounts. Given that exceedances are not independent across margin accounts, OCC will enhance this test so that it will produce a single numerical output that measures aggregation across margin accounts.

In addition to the enhanced Traffic Light Test, OCC will implement other industry standard tests based on exceedances in order to provide a more comprehensive set of tests. The second proposed change to OCC's back testing program is that OCC will add the Kupiec Test,[7] which is a new proportion of failures test that compares the actual number of exceedances with the number that would be expected in light of the confidence level associated with the calculation of margin. For example, when calculating margin with a confidence level of 99%, the number of exceedances is expected to be 1% of the total observations, *i.e.,* the P&Ls for all accounts for all days during the measurement period. If the actual number of exceedances is near the expected number, this is an indication that the calculated margin requirements are accurate estimates of the accounts' estimated losses.

The third proposed change to OCC's back testing program is that OCC will add the Christoffersen Independence Test,[8] which is a new statistical test that measures the extent to which exceedances are independent of each other. Specifically, if OCC's margin models are correctly assessing risk, the probability of an exceedance occurring at any two points in time should be the same as the probability of an exceedance occurring at either point in time, individually, without the exceedance occurring at the other point in time. The fourth proposed change to OCC's back testing program is a new test, the Probtile test, that compares the distribution of the daily observed P&L to the daily forecasted P&L distribution. If the distribution of P&L movement ratios approximates a uniform random distribution, this is an indication that

[3] OCC initially filed a similar advance notice on October 31, 2014, as File No. SR–OCC–2014–808. However to correct certain errors in that filing relating to two backtesting program tests, OCC withdrew it and made a new filing (File No. SR–OCC–2014–810) on November 13, 2014.

[4] *See,* ''Supervisory Framework for the Use of 'Backtesting' in Conjunction with Internal Model Approach to Market Risk Capital Requirement.'' Located at *http://www.bis.org/publ/bcbs22.htm.*

[5] The Enterprise Risk Management Committee is chaired by the Chief Risk Officer, and consists of the Executive Chairman, Chief Operations Officer, General Counsel, Chief Information Officer, Chief Audit Executive, the Chief Compliance Officer and other members as determined by the Chair.

[6] The relevant systems changes are scheduled to be installed on December 5, 2014.

[7] *See,* Kupiec, P. ''Techniques for Verifying the Accuracy of Risk Management Models,'' Journal of Derivatives, v3, P73–84. (1995).

[8] *See,* Christoffersen, Peter, ''Evaluating Interval Forecasts.'' International Economic Review, 39 (4), 841–862. (1998). Economic Review, 39 (4), 841–862. (1998).

OCC's margin models are providing accurate forecasts of potential losses in an account. Combined, these new statistical tests will provide OCC with the pertinent information necessary to evaluate the effectiveness of its models in determining margin coverage.

2. Proposed Data Set Changes

OCC proposes to enhance the data sets being back tested to allow for testing against various assumed portfolio and market data scenarios, in addition to the performance of actual portfolios against actual, current market conditions. First, OCC would back test hypothetical portfolios, allowing for the design and monitoring of portfolios that have magnified sensitivities to particular aspects of the models used in the margin computations. Back testing against hypothetical portfolios would provide a more comprehensive insight into the adequacy of the underlying model assumptions under market conditions prevailing in the back test observation periods.

Under the second data set enhancement, OCC would back test current accounts against earlier observation periods. Currently, accounts are ''frozen'' by assuming that the time to maturity and the degree to which options are in-the-money or out-of-the-money remain constant during the chosen observation period. The market data observed over the observation period is used to generate the margin forecasts and P&L. Under the enhancement, observation periods would be chosen to reflect special market conditions, which is useful because even though margin coverage might be adequate in the current environment, margin coverage could be inadequate under stressed conditions, such as periods of high volatility. The ability to select specific observation periods would not limit the back testing to the current environments but rather would highlight performance of margin coverage and model performance in market scenarios other than prevailing market conditions.

3. Proposed Forecast Horizons Changes

Currently, OCC conducts back testing using a one-day time horizon, which means that it compares calculated margin with realized profit and losses that occur on the business day following the calculation. OCC's margin calculations assume that positions would be liquidated over a two-day period. This test, therefore, compares two-day margin numbers to a one-day profit and loss calculation. OCC's existing back testing methodology makes adjustments in its testing to account for the difference between the two-day liquidation period used in its margin calculation and the one-day horizon used in the profit and loss calculation. OCC intends to revise its back testing methodology to take into account losses over a two-day time horizon, without such adjustments, which would match the two-day liquidation period used in the margin calculation. OCC therefore proposes to implement functionality into its back testing system to conduct a two-day time horizon back test, which will compare calculated margin against a two-day profit and loss calculation. OCC also proposes to revise its back testing methodology to compare one-day margin calculations against one-day profit and loss calculations, and will implement system functionality for such a test. Issues identified in any of these back tests will be reported to the ERMC. OCC believes that its adoption of the additional forecast horizons tests will allow it to have a more accurate view of the sufficiency of its margin methodology.

4. Proposed Root Cause Analysis Changes

The proposed Change will improve OCC's ability to conduct root cause analyses by providing OCC's back testing staff with additional, automated, investigation tools. Currently, and when necessary, OCC's back test staff conducts investigations in order to identify the root cause exceedances. The investigation itself is a manual process that is dependent upon the facts and circumstances pertaining to a given exceedance. OCC is now proposing to make system modifications that will provide OCC's back testing staff with addition tools that will facilitate such investigations. Specifically, OCC proposes to add system functionality that will show attribution of losses due to underlying price movements and implied volatility movements. Further, under the improvements OCC would be able to incorporate hypothetical accounts and positions into the tests and would be able to identify risk factors that move above or below the projected values. These changes will improve OCC's ability to conduct investigations that identify the root cause of exceedances, which will in turn lead to improving OCC's back testing methodology and its margin coverage.

Anticipated Effect on and Management of Risk

OCC believes the proposed Change to its back testing procedures would reduce the level of risk presented by OCC because it would enhance OCC's back testing by providing it with more tools to identify gaps in its margin methodology and develop corrective changes thereto.[9] For example, enhanced and increased statistical testing would provide additional information about the adequacy of margin coverage and thus strengthen the assessment of margin and model performance. Changes to data sets would include hypothetical portfolios and earlier observation periods would allow testing of margin coverage under a greater variety of market conditions. Modifying the tests to take into account losses over a two-day period would increase the accuracy of the testing because this two-period matches the assumed liquidation period used in the margin calculations. OCC would also be able to more accurately determine the root cause of exceedances, while rejecting results that incorrectly suggest a needed improvement in its margin methodology, and then would be able to narrowly tailor solutions to the identified root causes. Ultimately, by allowing OCC to more readily and precisely identify gaps in its margin methodology, the Change will reduce risk to OCC and the markets that it serves.

Consistency With the Payment, Clearing and Settlement Supervision Act

The Change is consistent with Section 805(b)(1) of Payment, Clearing and Settlement Supervision Act because it promotes robust risk management.[10] OCC's receipt of margin from its clearing members protects OCC and market participants from risks presented by the markets OCC serves. OCC uses back testing in order to evaluate the sufficiency and adequacy of the amount of margin it collects from its clearing members. As described above, the Change will provide OCC *will* [sic] additional tools to identify gaps in its margin methodology. Such identification process will lead to improvements to OCC margin models thereby promoting robust risk management.

III. Date of Effectiveness of the Advance Notice and Timing for Commission Action

The proposed change may be implemented if the Commission does not object to the proposed change within 60 days of the later of (i) the date that the Commission receives the notice

[9] Depending on the nature of a proposed change, it may be necessary for OCC to file a proposed rule change filing or advance notice filing with the Commission.

[10] 12 U.S.C. 5465(b)(1).

of proposed change, or (ii) the date the Commission receives any further information it requests for consideration of the notice. The clearing agency shall not implement the proposed change if the Commission has any objection to the proposed change.

The Commission may extend the period for review by an additional 60 days if the proposed change raises novel or complex issues, subject to the Commission providing the clearing agency with prompt written notice of the extension. A proposed change may be implemented in less than 60 days from the date the advance noticed is filed, or the date further information requested by the Commission is received, if the Commission notifies the clearing agency in writing that it does not object to the proposed change and authorizes the clearing agency to implement the proposed change on an earlier date, subject to any conditions imposed by the Commission.

The clearing agency shall post notice on its Web site of proposed changes that are implemented.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed change, is consistent with the Payment, Clearing and Settlement Supervision Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–OCC–2014–810 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–OCC–2014–810. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the advance notice that are filed with the Commission, and all written communications relating to the advance notice between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of OCC and on OCC's Web site *http://www.theocc.com/components/docs/legal/rules_and_bylaws/sr_occ_14_810.pdf.*

All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–OCC–2014–810 and should be submitted on or before January 2, 2015.

By the Commission.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–29002 Filed 12–10–14; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–73759; File No. SR–EDGA–2014–30]

Self-Regulatory Organizations; EDGA Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the EdgeBook Cloud Service on EDGA Exchange, Inc.

December 5, 2014.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on November 25, 2014, EDGA Exchange, Inc. (the ''Exchange'' or ''EDGA'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange has designated this proposal as a ''non-controversial'' proposed rule change pursuant to Section 19(b)(3)(A) of the Act[3] and Rule 19b–4(f)(6)(iii) thereunder,[4] which renders it effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange filed a proposal to eliminate references to and fees for the Flex Download and Snapshot offerings available as part of the Exchange's EdgeBook Cloud service, which are optional services that are to be discontinued by the Exchange. The Exchange will continue to offer the Replay portion of the EdgeBook Cloud service, but proposes to rename it EDGA Historical Depth Data as well as amend its related fees.

The text of the proposed rule change is available at the Exchange's Web site at *http://www.directedge.com/,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The EdgeBook Cloud is a service that allows Members and non-Members of the Exchange to obtain and query historical trade and quote data (''historical data'') representing the real-time data feed previously disseminated by the Exchange.[5] The EdgeBook Cloud currently includes the three separate offerings: Replay, FlexDownload, and Snapshot. The Exchange proposes to eliminate references to and fees for the Flex Download and Snapshot offerings available as part of the Exchange's EdgeBook Cloud service, which are optional services that are to be discontinued by the Exchange. The

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(6)(iii).

[5] *See* Securities Exchange Act Release No. 66403 (February 15, 2012), 77 FR 10593 (February 22, 2012) (SR–EDGA–2012–05) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to an Offering of a New Historical Data Feed Service to Members and Non-Members).

Exchange will continue to offer the Replay portion of the EdgeBook Cloud service, but proposes to rename it EDGA Historical Depth Data as well as amend its related fees.

Termination of FlexDownload and Snapshot

The Exchange proposes to delete reference to and fees for the FlexDownload and Snapshot offerings available as part of the Exchange's EdgeBook Cloud service because it intends to discontinue offering this products as of January 2, 2015. Therefore, reference to these products and their fees in the Exchange's fee schedule would no longer serve any legitimate purpose upon the product being retired by the Exchange. FlexDownload enables subscribers to submit customized queries of trade or quote information, specify the time and symbol parameters, as well as other attributes to be retrieved. Snapshot provided subscribers the ability to submit standard queries that can be accessed on-demand, or through an Application Programming Interface (''API'')[6] that permits query results to be downloaded by the subscriber. Standard queries include various quote and trade requests, as well as a combined quote and trade view for a requested symbol. The Exchange has no subscribers to either the FlexDownload or Snapshot offerings and, therefore, intends to terminate these services.

Harmonization of EDGE Book Cloud Replay With BATS Historical Pitch Data

The Exchange proposes to rename the Replay portion of the EdgeBook Cloud service as EDGA Historical Depth Data, which is similar to BATS Historical Pitch Data,[7] an identical product offered by BATS Exchange, Inc. (''BATS''), an affiliate of the Exchange. The Exchange also proposes to amend the fees charged for EdgeBook Cloud Replay service to more closely align with those fees charged for BATS Historical Pitch Data.

Earlier this year, the Exchange and its affiliate EDGX Exchange, Inc. (''EDGX'') received approval to effect a merger (the ''Merger'') of the Exchange's parent company, Direct Edge Holdings LLC, with BATS Global Markets, Inc., the parent of BATS and the BATS Y-Exchange, Inc. (''BYX'' together with BATS, BYX, EDGA and EDGX, the ''BGM Affiliated Exchanges'').[8] In the context of the Merger, the BGM Affiliated Exchanges are working to align certain rules and services, retaining only intended differences between the BGM Affiliated Exchanges. As part of this effort, the Exchange proposes to: (i) Rename the Replay portion of the EdgeBook Cloud service as EDGA Historical Depth Data, which is like BATS Historical Pitch Data, an identical product offered by BATS; and (ii) amend the fees charged for EdgeBook Cloud Replay service to more closely align with those fees charged for BATS Historical Pitch Data. Like the BATS Historical Pitch Data service, the Exchange also proposes to specify that the EdgeBook Cloud Replay service is offered to subscribers for internal use only.

In sum, both EdgeBook Cloud Replay and BATS Historical Pitch Data allow subscribers to access a formatted replay of each trading day, including the exact messages that were disseminated via the EdgeBook Depth feed for EDGA[9] and the BATS Exchange Pitch Feed[10] respectively, including any orders, executions, cancellations and status messages. Therefore, renaming the Replay portion of the EdgeBook Cloud service as EDGA Historical Depth Data, similar to the BATS Historical Pitch Data, is designed to align the naming of identical services offered by the BGM Affiliated Exchanges.[11]

While the fees for both the EdgeBook Cloud Replay and BATS Historical Pitch Data are similar, the Exchange does proposes amend the fees for the EdgeBook Cloud Replay service to more closely align with those fees charged for BATS Historical Pitch Data. Currently, subscribers to the EdgeBook Cloud Replay are charged a fee of $500/month for a rolling thirty day replay. Subscribers may also request data for a calendar month for a fee of $500 for each month they request, capped at $2500 if less than or equal to 1TB of data is requested. If a subscriber requests more than 1TB of data, it will be charged an additional $2500 flat fee. Subscribers to the BATS Historical Pitch Data service are charged a fee of $500/month per user for access to 90 days of data available on a rolling basis. For data that BATS provides on an external hard drive to a subscriber, BATS charges 2,500 per TB drive generated by the Exchange. The Exchange proposes to adopt the identical fee structure as BATS. As proposed, the Exchange will charge subscribers a $500 monthly access fee per user for access to 90 days of data available on a rolling basis. The Exchange will no longer charge subscribers $500/per month for a rolling 30 day replay or $500 for each calendar month requested. Like BATS, and similar to existing EdgeBook Cloud fees, the Exchange will charge $2,500 per TB hard drive for data downloaded by the Exchange to an external hard drive.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the requirements of Section 6(b) of the Act,[12] in general, and Section 6(b)(5) of the Act,[13] in particular, in that it promotes just and equitable principles of trade, removes impediments to, and perfects the mechanism of, a free and open market and a national market system, and, in general, protects investors and the public interest. The Exchange also believes that its proposal is consistent with Section 6(b)(4) of the Act,[14] in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and other persons using its facilities.

Termination of FlexDownload and Snapshot

The proposal is consistent with Section 6(b)(5) of the Act,[15] in that it eliminates any investor confusion by deleting references to services, and their related fees, that are to be discontinued by the Exchange, thereby removing impediments to and perfecting the mechanism of a free and open market and a national market system, and, in general, protecting investors and the public interest. In addition, the Exchange has no subscribers to the FlexDownload and Snapshot offerings, neither of these offerings are core product offerings by the Exchange, nor is the Exchange required by the Act to offer such products. The proposed rule change will not permit unfair discrimination among customers, brokers, or dealers because the FlexDownload and Snapshot offerings will no longer be offered by the Exchange.

In addition, the Exchange believes that the proposed removal of the fees for the FlexDownload and Snapshot

[6] An API facilitates information sharing by acting as a ''go-between'' that enables a software program to interact with other software.

[7] *See* Securities Exchange Act Release No. 61885 (April 9, 2010), 75 FR 20018 (April 16, 2010) (SR–BATS–2010–002) (Order Approving Proposed Rule Change, As Amended, To Offer Certain BATS Exchange Data Products).

[8] *See* Securities Exchange Act Release No. 71449 (January 30, 2014), 79 FR 6961 (February 5, 2014) (SR–EDGX–2013–43; SR–EDGA–2013–34).

[9] *See* Exchange Rule 13.8 for a description of the EDGA Book Feed.

[10] *See* BATS Rules 11.22(a) and (c) for a description of the BATS Exchange Pitch feeds.

[11] The Exchange understands that EDGX is to file a proposed rule change with the Commission to make similar changes.

[12] 15 U.S.C. 78f(b).

[13] 15 U.S.C. 78f(b)(5).

[14] 15 U.S.C. 78f(b)(4).

[15] 15 U.S.C. 78f(b)(5).

offerings from its fee schedule are consistent with Section 6(b)(4) of the Act[16] because it would delete fees for products that are to be discontinued by the Exchange, thereby eliminating investor confusion. Lastly, the Exchange also believes that the proposed amendment to its fee schedule is reasonable and non-discriminatory because it will apply uniformly to all members.

Harmonization of EDGE Book Cloud Replay With BATS Historical Pitch Data

The proposal is consistent with Section 6(b)(5) of the Act,[17] in that it eliminates any investor confusion because renaming the Replay portion of the EdgeBook Cloud service as EDGA Historical Depth Data, similar to the BATS Historical Pitch Data, an identical product offered by BATS, is designed to align the naming of identical services offered by the BGM Affiliated Exchanges. In addition, the Exchange believes that its proposal to harmonize the fees charged for EdgeBook Cloud Replay service with those fees charged for BATS Historical Pitch Data is consistent with Section 6(b)(4) of the Act[18] because it is also designed to align the pricing of identical products offered across the BGM Affiliated Exchanges. The Exchange also believes the proposed fees for the EdgeBook Cloud Replay service are reasonable and equitable because they mirror the fees charged for BATS Historical Pitch Data, which have been previously approved by the Commission.[19] The Exchange believes that its proposed fees are reasonable in light of the benefits to data recipients. This product is completely optional in that no subscriber is required to purchase it and only those subscribers that deem such product to be of sufficient overall value and usefulness will purchase it. Lastly, the Exchange also believes that the proposed amendment to its fee schedule is reasonable and non-discriminatory because it will apply uniformly to all members.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes the proposal is consistent with Section 6(b)(8) of the Act[20] in that it does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change to remove references to data products and their related fees that are to be retired by the Exchange is not designed to have a competitive impact. Second, the proposal to rename an existing service and amend its fees to align with an identical service offered by BATS is also not designed to have a burden on competition as it is merely intended to provide greater harmonization among Exchange and BATS, alleviating investor confusion by providing a uniform product offering across the BGM Affiliated Exchanges. Therefore, the Exchange does not believe the proposed rule change will have any effect on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has neither solicited nor received written comments on 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: (1) Significantly affect the protection of investors or the public interest; (2) impose any significant burden on competition; and (3) by its terms does not become operative for 30 days after the date of this filing, 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[21] and Rule 19b–4(f)(6) thereunder.[22]

A proposed rule change filed under Rule 19b–4(f)(6) normally does not become operative for 30 days after the date of filing. However, Rule 19b–4(f)(6)(iii) permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest so that the Exchange can align the names and fees for identical services offered by the Exchange and BATS, and delete references to data products and their fees that are to be discontinued by the Exchange in a timely manner. In addition, the Exchange has no subscribers to the FlexDownload and Snapshot offerings; therefore, exchange participants will not be affected by the immediate discontinuation of these products.[23] Accordingly, the Commission hereby grants the Exchange's request and designates the proposal operative upon filing.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–EDGA–2014–30 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–EDGA–2014–30. 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

[16] 15 U.S.C. 78f(b)(4).

[17] 15 U.S.C. 78f(b)(5).

[18] 15 U.S.C. 78f(b)(4).

[19] *See supra* note 7.

[20] 15 U.S.C. 78f(b)(8).

[21] 15 U.S.C. 78s(b)(3)(A).

[22] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires a self-regulatory organization to provide the Commission with written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has met this requirement.

[23] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

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–EDGA–2014–30, and should be submitted on or before January 2, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[24]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–29006 Filed 12–10–14; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–73758; File No. SR–EDGX–2014–30]

Self-Regulatory Organizations; EDGX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the EdgeBook Cloud Service on EDGX Exchange, Inc.

December 5, 2014.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on November 25, 2014, EDGX Exchange, Inc. (the ''Exchange'' or ''EDGX'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange has designated this proposal as a ''non-controversial'' proposed rule change pursuant to Section 19(b)(3)(A) of the Act[3] and Rule 19b–4(f)(6)(iii) thereunder,[4] which renders it effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange filed a proposal to eliminate references to and fees for the Flex Download and Snapshot offerings available as part of the Exchange's EdgeBook Cloud service, which are optional services that are to be discontinued by the Exchange. The Exchange will continue to offer the Replay portion of the EdgeBook Cloud service, but proposes to rename it EDGX Historical Depth Data as well as amend its related fees.

The text of the proposed rule change is available at the Exchange's Web site at *http://www.directedge.com/*, at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The EdgeBook Cloud is a service that allows Members and non-Members of the Exchange to obtain and query historical trade and quote data (''historical data'') representing the real-time data feed previously disseminated by the Exchange.[5] The EdgeBook Cloud currently includes the three separate offerings: Replay, FlexDownload, and Snapshot. The Exchange proposes to eliminate references to and fees for the Flex Download and Snapshot offerings available as part of the Exchange's EdgeBook Cloud service, which are optional services that are to be discontinued by the Exchange. The Exchange will continue to offer the Replay portion of the EdgeBook Cloud service, but proposes to rename it EDGX Historical Depth Data as well as amend its related fees.

Termination of FlexDownload and Snapshot

The Exchange proposes to delete reference to and fees for the FlexDownload and Snapshot offerings available as part of the Exchange's EdgeBook Cloud service because it intends to discontinue offering this products as of January 2, 2015. Therefore, reference to these products and their fees in the Exchange's fee schedule would no longer serve any legitimate purpose upon the product being retired by the Exchange. FlexDownload enables subscribers to submit customized queries of trade or quote information, specify the time and symbol parameters, as well as other attributes to be retrieved. Snapshot provided subscribers the ability to submit standard queries that can be accessed on-demand, or through an Application Programming Interface (''API'')[6] that permits query results to be downloaded by the subscriber. Standard queries include various quote and trade requests, as well as a combined quote and trade view for a requested symbol. The Exchange has no subscribers to either the FlexDownload or Snapshot offerings and, therefore, intends to terminate these services.

Harmonization of EDGE Book Cloud Replay With BATS Historical Pitch Data

The Exchange proposes to rename the Replay portion of the EdgeBook Cloud service as EDGX Historical Depth Data, which is similar to BATS Historical Pitch Data,[7] an identical product offered by BATS Exchange, Inc. (''BATS''), an affiliate of the Exchange. The Exchange also proposes to amend the fees charged for EdgeBook Cloud Replay service to more closely align with those fees charged for BATS Historical Pitch Data.

Earlier this year, the Exchange and its affiliate EDGX Exchange, Inc. (''EDGX'') [sic] received approval to effect a merger (the ''Merger'') of the Exchange's parent company, Direct Edge Holdings LLC, with BATS Global Markets, Inc., the parent of BATS and the BATS Y-Exchange, Inc. (''BYX'' together with BATS, BYX, EDGA and EDGX, the

[24] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(6)(iii).

[5] *See* Securities Exchange Act Release No. 66402 (February 15, 2012), 77 FR 10595 (February 22, 2012) (SR–EDGX–2012–05) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to an Offering of a New Historical Data Feed Service to Members and Non-Members).

[6] An API facilitates information sharing by acting as a ''go-between'' that enables a software program to interact with other software.

[7] *See* Securities Exchange Act Release No. 61885 (April 9, 2010), 75 FR 20018 (April 16, 2010) (SR–BATS–2010–002) (Order Approving Proposed Rule Change, As Amended, To Offer Certain BATS Exchange Data Products).

''BGM Affiliated Exchanges'').[8] In the context of the Merger, the BGM Affiliated Exchanges are working to align certain rules and services, retaining only intended differences between the BGM Affiliated Exchanges. As part of this effort, the Exchange proposes to: (i) Rename the Replay portion of the EdgeBook Cloud service as EDGX Historical Depth Data, which is like BATS Historical Pitch Data, an identical product offered by BATS; and (ii) amend the fees charged for EdgeBook Cloud Replay service to more closely align with those fees charged for BATS Historical Pitch Data. Like the BATS Historical Pitch Data service, the Exchange also proposes to specify that the EdgeBook Cloud Replay service is offered to subscribers for internal use only.

In sum, both EdgeBook Cloud Replay and BATS Historical Pitch Data allow subscribers to access a formatted replay of each trading day, including the exact messages that were disseminated via the EdgeBook Depth feed for EDGX [9] and the BATS Exchange Pitch Feed [10] respectively, including any orders, executions, cancellations and status messages. Therefore, renaming the Replay portion of the EdgeBook Cloud service as EDGX Historical Depth Data, similar to the BATS Historical Pitch Data, is designed to align the naming of identical services offered by the BGM Affiliated Exchanges.[11]

While the fees for both the EdgeBook Could Replay and BATS Historical Pitch Data are similar, the Exchange does proposes amend the fees for the EdgeBook Cloud Replay service to more closely align with those fees charged for BATS Historical Pitch Data. Currently, subscribers to the EdgeBook Cloud Replay are charged a fee of $500/month for a rolling thirty day replay. Subscribers may also request data for a calendar month for a fee of $500 for each month they request, capped at $2500 if less than or equal to 1TB of data is requested. If a subscriber requests more than 1TB of data, it will be charged an additional $2500 flat fee. Subscribers to the BATS Historical Pitch Data service are charged a fee of $500/month per user for access to 90 days of data available on a rolling basis. For data that BATS provides on an external hard drive to a subscriber, BATS charges 2,500 per TB drive generated by the Exchange. The Exchange proposes to adopt the identical fee structure as BATS. As proposed, the Exchange will charge subscribers a $500 monthly access fee per user for access to 90 days of data available on a rolling basis. The Exchange will no longer charge subscribers $500/per month for a rolling 30 day replay or $500 for each calendar month requested. Like BATS, and similar to existing EdgeBook Cloud fees, the Exchange will charge $2,500 per TB hard drive for data downloaded by the Exchange to an external hard drive.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the requirements of Section 6(b) of the Act,[12] in general, and Section 6(b)(5) of the Act,[13] in particular, in that is promotes just and equitable principles of trade, removes impediments to, and perfect the mechanism of, a free and open market and a national market system, and, in general, protects investors and the public interest. The Exchange also believes that its proposal is consistent with Section 6(b)(4) of the Act,[14] in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and other persons using its facilities.

Termination of FlexDownload and Snapshot

The proposal is consistent with Section 6(b)(5) of the Act,[15] in that it eliminates any investor confusion by deleting references to services, and their related fees, that are to be discontinued by the Exchange, thereby removing impediments to and perfecting the mechanism of a free and open market and a national market system, and, in general, protecting investors and the public interest. In addition, the Exchange has no subscribers to the FlexDownload and Snapshot offerings, neither of these offerings are core product offerings by the Exchange, nor is the Exchange required by the Act to offer such products. The proposed rule change will not permit unfair discrimination among customers, brokers, or dealers because the FlexDownload and Snapshot offerings will no longer be offered by the Exchange.

In addition, the Exchange believes that the proposed removal of the fees for the FlexDownload and Snapshot offerings from its fee schedule are consistent with Section 6(b)(4) of the Act [16] because it would delete fees for products that are to be discontinued by the Exchange, thereby eliminating investor confusion. Lastly, the Exchange also believes that the proposed amendment to its fee schedule is reasonable and non-discriminatory because it will apply uniformly to all members.

Harmonization of EDGE Book Cloud Replay With BATS Historical Pitch Data

The proposal is consistent with Section 6(b)(5) of the Act,[17] in that it eliminates any investor confusion because renaming the Replay portion of the EdgeBook Cloud service as EDGX Historical Depth Data, similar to the BATS Historical Pitch Data, an identical product offered by BATS, is designed to align the naming of identical services offered by the BGM Affiliated Exchanges. In addition, the Exchange believes that its proposal to harmonize the fees charged for EdgeBook Cloud Replay service with those fees charged for BATS Historical Pitch Data is consistent with Section 6(b)(4) of the Act [18] because it is also designed to align the pricing of identical products offered across the BGM Affiliated Exchanges. The Exchange also believes the proposed fees for the EdgeBook Cloud Replay service are reasonable and equitable because they mirror the fees charged for BATS Historical Pitch Data, which have been previously approved by the Commission.[19] The Exchange believes that its proposed fees are reasonable in light of the benefits to data recipients. This products is completely optional in that no subscriber is required to purchase it and only those subscribers that deem such product to be of sufficient overall value and usefulness will purchase it. Lastly, the Exchange also believes that the proposed amendment to its fee schedule is reasonable and non-discriminatory because it will apply uniformly to all members.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes the proposal is consistent with Section 6(b)(8) of the Act [20] in that it does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change to remove

[8] *See* Securities Exchange Act Release No. 71449 (January 30, 2014), 79 FR 6961 (February 5, 2014) (SR–EDGX–2013–43; SR–EDGA–2013–34).

[9] *See* Exchange Rule 13.8 for a description of the EDGX Book Feed.

[10] *See* BATS Rules 11.22(a) and (c) for a description of the BATS Exchange Pitch feeds.

[11] The Exchange understands that EDGA is to file a proposed rule change with the Commission to make similar changes.

[12] 15 U.S.C. 78f(b).

[13] 15 U.S.C. 78f(b)(5).

[14] 15 U.S.C. 78f(b)(4).

[15] 15 U.S.C. 78f(b)(5).

[16] 15 U.S.C. 78f(b)(4).

[17] 15 U.S.C. 78f(b)(5).

[18] 15 U.S.C. 78f(b)(4).

[19] *See supra* note 7.

[20] 15 U.S.C. 78f(b)(8).

references to data products and their related fees that are to be retired by the Exchange is not designed to have a competitive impact. Second, the proposal to rename an existing service and amend its fees to align with an identical service offered by BATS is also not designed to have a burden on competition as it is merely intended to provide greater harmonization among Exchange and BATS, alleviating investor confusion by providing a uniform product offering across the BGM Affiliated Exchanges. Therefore, the Exchange does not believe the proposed rule change will have any effect on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has neither solicited nor received written comments on 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: (1) Significantly affect the protection of investors or the public interest; (2) impose any significant burden on competition; and (3) by its terms does not become operative for 30 days after the date of this filing, 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 [21] and Rule 19b–4(f)(6) thereunder.[22]

A proposed rule change filed under Rule 19b–4(f)(6) normally does not become operative for 30 days after the date of filing. However, Rule 19b–4(f)(6)(iii) permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest so that the Exchange can align the names and fees for identical services offered by the Exchange and BATS, and delete references to data products and their fees that are to be discontinued by the Exchange in a timely manner. In addition, the Exchange has no subscribers to the FlexDownload and Snapshot offerings; therefore, exchange participants will not be affected by the immediate discontinuation of these products.[23] Accordingly, the Commission hereby grants the Exchange's request and designates the proposal operative upon filing.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–EDGX–2014–30 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–EDGX–2014–30. 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–EDGX–2014–30, and should be submitted on or before January 2, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[24]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–29008 Filed 12–10–14; 8:45 am]

BILLING CODE 8011–01–P

[21] 15 U.S.C. 78s(b)(3)(A).

[22] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires a self-regulatory organization to provide the Commission with written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has met this requirement.

[23] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[24] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–73753; File No. SR–BOX–2014–26]

Self-Regulatory Organizations; BOX Options Exchange LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Adjust the Fees and Credits for Complex Orders Executed Against Orders on the BOX Book

December 5, 2014.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on December 4, 2014, BOX Options Exchange LLC (the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Exchange filed the proposed rule change pursuant to Section 19(b)(3)(A)(ii) of the Act,[3] and Rule 19b–4(f)(2) thereunder,[4] which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(ii).

[4] 17 CFR 240.19b–4(f)(2).

solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

The Exchange is filing with the Securities and Exchange Commission (''Commission'') a proposed rule change to amend the Fee Schedule to adjust the fees and credits for Complex Orders Executed Against Orders on the BOX Book on the BOX Market LLC (''BOX'') options facility. The text of the proposed rule change is available from the principal office of the Exchange, at the Commission's Public Reference Room and also on the Exchange's Internet Web site at *http://boxexchange.com.*

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 Exchange proposes to amend the Fee Schedule for trading on BOX to adjust the fees and credits outlined in Section III.A. (Complex Orders Executed Against Orders on the BOX Book).

Specifically, for Complex Orders executing against orders on the BOX Book the Exchange proposes to assess different fees and credits for Complex Orders in Penny Pilot Classes than Complex Orders in Non-Penny Pilot Classes. Currently all Complex Order transactions that execute against orders on the BOX Book are assessed a $0.35 per contract per leg credit when executed by Public Customers, a $0.45 per contract per leg fee when executed by Professional Customers and Broker Dealers, and a $0.40 per contract per leg fee when executed by Market Makers.

The proposed fees and credits for Complex Orders executing against orders on the BOX Book are as follows:

Account type	Penny pilot classes	Non-Penny pilot classes
Public Customer	($0.35)	($0.70)
Professional Customer and Broker Dealer	$0.40	$0.80
Market Maker	$0.40	$0.80

For example, if a Professional Customer's Penny Pilot Complex Order A+B executes against orders on the BOX Book, the Professional Customer will be charged $0.80 ($0.40 for A, plus $0.40 for B). If instead the Professional Customer's Complex Order is in a Non-Penny Pilot class, the Professional Customer will be charged $1.60 ($0.80 for A, plus $0.80 for B). A Public Customer executing a Penny Pilot Complex Order A+B will receive a credit of $0.70 ($0.35 for A, plus $0.35 for B).

2. Statutory Basis

The Exchange believes that the proposal is consistent with the requirements of Section 6(b) of the Act, in general, and Section 6(b)(4) and 6(b)(5) of the Act,[5] in particular, in that it provides for the equitable allocation of reasonable dues, fees, and other charges among BOX Participants and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers or dealers.

The Exchange believes that the proposed fees and credits are reasonable, equitable and non-discriminatory. In particular, the proposed fees and credits will allow the Exchange to apply separate fees and credits for transactions in penny pilot issues and those in non-penny pilot issues, a distinction that is made in many other sections of the BOX Fee Schedule, including Section III.B of the Fee Schedule (Complex Orders Executed Against Other Complex Orders). The Exchange notes that submitting Complex Orders to BOX is entirely voluntary and that several other competing exchanges possess similar Complex Order functionalities. Participants can therefore choose what type of order to submit to BOX, or direct their Complex Order flow to any other exchange if they determine the proposed Complex Order fee structure to be unreasonable.

The Exchange believes it is equitable, reasonable and not unfairly discriminatory to assess fees and credits according to whether the Complex Order executes against orders on the BOX Book or against another Complex Order and according to the account types of the Participant submitting the Complex Order. This fee structure was adopted by the Exchange over a year ago[6] and has been accepted by both the Commission and the industry. The result of this structure is that a Participant does not know the fee it will be charged when submitting a Complex Order. Therefore, the Participant must recognize that it could be charged the highest applicable fee on the Exchange's schedule, which may, instead, be lowered or changed to a credit depending upon how its Complex Order interacts.

The Exchange believes it is reasonable and equitable to provide credits for Public Customer Complex Orders and to charge fees to Professional Customers, Broker Dealers and Market Makers when their Complex Orders execute on the BOX Book. Specifically the Exchange believes that the proposed $0.35 credit for Public Customers and $0.40 fee for Professional Customers, Broker Dealers and Market Makers in Penny Pilot Classes, and the proposed $0.70 credit for Public Customers and $0.80 fee for Professional Customers, Broker Dealers and Market Makers in Non-Penny Pilot Classes are reasonable and strike an appropriate balance between the fees charged for standard orders and the Complex Order Fees and Credits applied when a Complex Order executes against another Complex Orders [sic]. The proposed credits for Public Customer Complex Orders that execute on the BOX Book are equal to the credits

[5] 15 U.S.C. 78f(b)(4) and (5).

[6] *See* Securities Exchange Act Release No. 71312 (January 15, 2014), 79 FR 3649 (January 22, 2014) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the Fee Schedule To Establish Fees for Complex Order Price Improvement Period (''COPIP'') Transactions).

already in place for Public Customers' [sic] that execute against non-Public Customers in Section III.B. (Complex Orders Executed Against Other Complex Orders). Further, the proposed fees for Professional Customers, Broker Dealers and Market Makers in both Penny Pilot Classes and Non-Penny Pilot Classes are in line with the fees assessed for when these Participants' Complex Orders execute against other Complex Orders. The Exchange believes the proposed fees and credits will continue to encourage Participants to execute Complex Orders by ensuring that they receive similar incentives and fees regardless of where their Complex Order executes. The Exchange believes this will help attract Complex Order flow to the Exchange and create increased liquidity, which will ultimately benefit all Participants trading on BOX. The proposed fees and credits are also competitive with the fees and credits offered for similar transactions on at least one other exchange.[7]

For Complex Orders that execute on the BOX Book, the Exchange believes it is reasonable to charge Professional Customers, Broker Dealers, and Market Makers less for executions in penny pilot issues than non-penny issues because these classes are typically the more actively traded and assessing lower fees will further incentivize Complex Order transaction [sic] in penny pilot issues on the Exchange, ultimately benefiting all Participants trading on BOX. The Complex Order fees are competitive with the fees and credits offered for similar transactions on at least one other exchange.[8] Additionally, the Exchange believes it is reasonable to give a greater credit to Public Customers in Complex Order transactions involving non-penny pilot issues than penny pilot issues. These classes have wider spreads and are less actively traded; and giving a larger credit will further incentivize Public Customers to trade in these classes. The proposed Public Customer credits are competitive with the credits offered for similar transactions on at least one other exchange.[9]

The Exchange believes that the proposed fees and credits are reasonable because a Public Customer submitting Complex Orders on BOX will recognize that it will never pay a fee for these transactions. Depending on where and with whom the Complex Order executes, the Public Customer may receive an additional benefit for submitting the order. Likewise, a Professional Customer or Broker Dealer submitting Complex Orders will recognize that it will not be charged more than $0.45 in penny pilot issues and $0.80 in non-penny pilot issues. (When the Professional Customer or Broker Dealer's Complex Order executes against a Public Customer's Complex Order). The same is true for Market Makers, who will recognize that their maximum charge when submitting a Complex Order will be $0.40 in penny pilot issues and $0.80 in non-penny pilot issues.

The Exchange believes providing a credit to Public Customers for Complex Orders that execute against orders on the BOX Book is equitable and non-discriminatory. The securities markets generally, and BOX in particular, have historically aimed to improve markets for investors and develop various features within the market structure for customer benefit. Accordingly, the Exchange believes that providing a credit for Public Customer Complex Order transactions is appropriate and not unfairly discriminatory. Public Customers are less sophisticated than other Participants and the credit will help to attract a higher level of Public Customer order flow to the Complex Order Book and create liquidity, which the Exchange believes will ultimately benefit all Participants trading on BOX.

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 believes that the proposed fees and credits will neither impose burdens on competition among various Exchange Participants nor impose any burden on competition among exchanges in the listed options marketplace, not necessary or appropriate in furtherance of the purposes of the Act. BOX currently assesses distinct fees and credits for transactions in Penny Pilot and Non-Penny Pilot issues and the proposed change is simply adopting this type of structure for Complex Order that execute on the BOX Book.

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 Exchange Act[10] and Rule 19b–4(f)(2) thereunder,[11] because it establishes or changes a due, or fee.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend the rule change if it appears to the Commission that the action is necessary or appropriate in the public interest, for the protection of investors, or would otherwise further 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–BOX–2014–26 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–BOX–2014–26. 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

[7] For Complex Orders that interact with the regular order book, NYSE Arca, Inc. charges Public Customers $0.47 or $0.85 (depending on issue), Broker Dealers $0.49 or $0.89 (depending on issue), and Market Makers $0.49 or $0.87 (depending on issue).

[8] The International Securities Exchange, LLC (''ISE'') assesses Professional Customers and Broker Dealers $0.44 for Complex Order transactions in Penny Names and $.87 for Complex Order transactions in non-Penny Names. Market Makers are assessed $0.43 for Complex Order transactions in Penny Names and $0.85 for Complex Order transactions in non-Penny Names.

[9] At the lowest volume tier level, the ISE gives Public Customers a $0.30 credit for Complex Order transactions in Penny Names, and a $0.63 credit for Complex Order transactions in non-Penny Names.

[10] 15 U.S.C. 78s(b)(3)(A)(ii).

[11] 17 CFR 240.19b–4(f)(2).

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–BOX–2014–26, and should be submitted on or before January 2, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[12]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–29004 Filed 12–10–14; 8:45 am]

BILLING CODE 8011–01–P

[12] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

Data Collection Available for Public Comments

AGENCY: Small Business Administration.

ACTION: 60-day notice and request for comments.

SUMMARY: The Small Business Administration (SBA) intends to request approval, from the Office of Management and Budget (OMB) for the collection of information described below. The Paperwork Reduction Act (PRA) of 1995, 44 U.S.C Chapter 35 requires federal agencies to publish a notice in the **Federal Register** concerning each proposed collection of information before submission to OMB, and to allow 60 days for public comment in response to the notice. This notice complies with that requirement.

DATES: Submit comments on or before February 9, 2015.

ADDRESSES: Send all comments to Kim McClellan, Senior Policy Analyst, Office of Veterans Business Development, U.S. Small Business Administration, 409 3rd Street SW., 5th Floor, Washington, DC 20416.

FOR FURTHER INFORMATION CONTACT: Kim McClellan, Senior Policy Analyst, 202–205–6777, *kimoanh.mcclellan@sba.gov,* or Curtis B. Rich, Management Analyst, 202–205–7030, *curtis.rich@sba.gov.*

SUPPLEMENTARY INFORMATION: This is a request for the collection of new information.

The Office of Veterans Business Development (OVBD) at the U.S. Small Business Administration implements applicable sections of the Small Business Act, of Public Laws and Executive Orders governing veteran programs, and to support the SBA mission to assist eligible American veterans and Reservist Component service members by providing access to the tools and resources necessary for entrepreneurs to start, run, and grow their businesses. OVBD manages the Veterans Business Development Centers (VBOC) Program. Established in 1999 pursuant to Public Law 106–50, VBOCs offer pre-business plan workshops, concept assessment and business plan preparation, feasibility analysis entrepreneurship counseling and training, online assistance, and mentorship service to veteran entrepreneurs and veteran-owned small business concerns controlled by veterans, service-disabled veterans, and Reserve Component members.

As part of OVBD's effort to enhance the services provided by VBOC to veterans and veteran-owned small businesses, OVBD has acquired the service of a research firm to conduct a series of data collection. In addition, a part of the forthcoming new cycle of grant solicitation for 2015, SBA will assess the population assisted by current VBOCs, funded in 2010, the services provided to individuals, the preliminary impact of services on the business goals of clients, client satisfaction with VBOCs, and lessons learned and recommendations by the VBOCs and clients. Through the WebCATS/Neoserra system, SBA has the ability to collect some data on VBOC clients and VBOC activities. However, to get a better understanding of the full range of topics mentioned above, SBA needs to collect survey and interview data from VBOC clients, directors, and staff (non-directors of VBOCs that help provide services to people). Specifically, SBA proposes the use of five different instruments for data collection and analysis. These instruments are: (1) A VBOC client survey; (2) a VBOC director survey; (3) VBOC client interviews; (4) VBOC director interviews; and (5) VBOC staff interviews. SBA plans to administer each instrument to more than nine individuals.

The surveys will be administered electronically, while the interviews will be conducted either in-person or via phone. The interview questions will contain all open-ended questions, while the web-based survey will contain both open- and close-ended questions. The types of information that will be collected in the instruments can be found in the ''Summary of Information Collection'' section below. Quantitative analysis (the primary method of data analysis for the survey data) and qualitative analysis (the primary method of data analysis for the interview data) will be used on the data collected. Quantitative analysis will consist of univariate and multivariate statistical analyses, while qualitative analysis will consist of establishing clear rules for interpretation and finding themes in the interview data. The information collected and analyzed from these instruments will contribute to performance metrics and program goals as well as recommendations on improving program practices.

Solicitation of Public Comments

SBA is requesting comments on (a) whether the collection of information is necessary for the agency to properly perform its functions; (b) whether the burden estimates are accurate; (c) whether there are ways to minimize the burden, including through the use of automated techniques or other forms of information technology; and (d) whether there are ways to enhance the quality, utility, and clarity of the information.

Summary of Information Collection

1. VBOC Director Interview Questions

Directors of VBOCs under the 2015 grant will be interviewed. Director interviews will consist of questions about client demographics, outreach practices, services provided, staff capacity, intake protocols, reporting protocols, referral network, feedback mechanisms, best practices, lessons learned, and challenges. These questions will be open-ended to allow directors to fully explain how their respective programs operate. These interviews will be conducted either in-person or via phone. The total estimated number of annual responses from the director interviews will be 10. The estimated average completion time of a survey is 1.5 hours. The total estimated annual hour burden is 15.

2. VBOC Staff Interview Questions

Staff of VBOCs under the 2015 grant will be interviewed. Staff interviews will consist of questions about staff

background and training, client flow, day-to-day operations, services provided, intake protocols, reporting protocols, referral practices, feedback mechanisms, best practices, lessons learned, and challenges. These questions will be open-ended to allow staff to describe their role at the VBOC. These interviews will be conducted either in-person or via phone. The total estimated number of annual responses from the staff interviews will be 20. The estimated average completion time of a survey is 1 hour. The total estimated annual hour burden is 20.

3. VBOC Client Interview Questions

Clients of VBOCs under the 2015 grant will be interviewed. Clients are defined as individuals that received at least one type of service (*i.e.,* counseling or training) from a VBOC. Client interviews will consist of questions about topics such as how they found the VBOC, what services they received, if their needs were met, and how they would improve the program. The questions will be open-ended to allow clients to fully describe themselves and their experiences at the VBOC. These interviews will be conducted either in-person or via phone. The total estimated number of annual responses from the client interviews will be 20. The estimated average completion time of a survey is 0.5 hours. The total estimated annual hour burden is 10.

4. VBOC Client Survey

Clients of VBOCs under the 2010 and 2015 grants will be surveyed. This survey will consist of questions about the demographics of clients as well as their needs and goals, how they were assessed, the services they received, the resources they used, client outcomes, impact of services, and client satisfaction with VBOCs. This survey will be administered electronically. The total estimated number of annual responses from the client survey will be 4000 (up to approximately 3000 responses from the 2010 VBOC grantees and up to approximately 1000 responses from the 2015 VBOC grantees). The estimated average completion time of a survey is 25 minutes. The total estimated annual hour burden is 1,666.67.

5. VBOC Director Survey

Directors of VBOCs under the 2015 grant will be surveyed. This survey will consist of questions about the VBOC directors, staff capacity, client characteristics, services, client tracking, and referral network to assess implementation practices across VBOCs. This survey will be administered electronically. The total estimated number of annual responses from the director survey will be 10. The estimated average completion time of a survey is 80 minutes. The total estimated annual hour burden is 13.33.

Total Estimated Annual Responses Across All Instruments: Approximately 4,060 total people (approximately 3,000 clients surveyed from the 2010 VBOC grantees and approximately 1000 clients surveyed from the 2015 VBOC grantees; approximately 10 directors surveyed from the 2015 VBOC grantees; approximately 10 directors interviewed from the 2015 VBOC grantees; approximately 20 staff members interviewed from the 2015 VBOC grantees; and approximately 20 clients interviewed from the 2015 VBOC grantees).

Total Estimated Annual Hour Burden Across All Instruments: Approximately 1725 hours (approximately 120 minutes per director interview, approximately 60 minutes per staff interview, approximately 30 minutes per client interview, approximately 80 minutes hours per director survey, and approximately 25 minutes per client survey).

Curtis B. Rich,

Management Analyst, U.S. Small Business Administration.

[FR Doc. 2014–29140 Filed 12–10–14; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

Surrender of License of Small Business Investment Company

Pursuant to the authority granted to the United States Small Business Administration (''SBA'') under Section 309 of the Small Business Investment Act of 1958, as amended, and Section 107.1900 of the Small Business Administration Rules and Regulations, SBA by this notice declares null and void the license to function as a small business investment company under the Small Business Investment Company License No. 01/01–0411 issued to MB Growth Partners II, L.P.

United States Small Business Administration.

Dated: December 3, 2014.

Javier E. Saade,

Associate Administrator, Office of Investment and Innovation.

[FR Doc. 2014–29145 Filed 12–10–14; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

National Small Business Development Center Advisory Board

AGENCY: U.S. Small Business Administration (SBA).

ACTION: Notice of open Federal Advisory Committee meetings.

SUMMARY: The SBA is issuing this notice to announce the location, date, time and agenda for the 1st quarter meetings of the National Small Business Development Center (SBDC) Advisory Board.

DATES: The meetings for the 2nd quarter will be held on the following dates:

Tuesday, January 20, 2015 at 1:00 p.m. EST

Tuesday, February 10, 2015 at 1:00 p.m. EST

Tuesday, March 10, 2015 at 1:00 p.m. EST

ADDRESSES: These meetings will be held via conference call.

FOR FURTHER INFORMATION CONTACT: The meeting is open to the public however advance notice of attendance is requested. Anyone wishing to be a listening participant must contact Monika Nixon by fax or email. Her contact information is Monika Nixon, Program Specialist, 409 Third Street SW., Washington, DC 20416, Phone, 202–205–7310, Fax 202–481–5624, email, *monika.nixon@sba.gov.*

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a) of the Federal Advisory Committee Act (5 U.S.C. Appendix 2), SBA announces the meetings of the National SBDC Advisory Board. This Board provides advice and counsel to the SBA Administrator and Associate Administrator for Small Business Development Centers.

The purpose of these meetings is to discuss following issues pertaining to the SBDC Advisory Board.:

—SBA Update

—Annual Meetings

—Board Assignments

—Member Roundtable

Additionally, if you need accommodations because of a disability or require additional information, please contact Monika Nixon at the information above.

Diana Doukas,

Committee Management Officer.

[FR Doc. 2014–29147 Filed 12–10–14; 8:45 am]

BILLING CODE P

DEPARTMENT OF STATE

[Public Notice 8965]

In the Matter of the Designation of Said Ali al-Shihri as a Specially Designated Global Terrorist Pursuant to Section 1(b) of Executive Order 13224, as Amended

In accordance with section 1(b) of Executive Order 13224 of September 23, 2001, as amended (''the Order''), I hereby determine that the individual known as Said Ali al-Shihri, also known as other aliases and transliterations, no longer meets the criteria for designation under the Order, and therefore I hereby revoke the designation of the aforementioned individual as a Specially Designated Global Terrorist pursuant to section 1(b) of the Order.

This notice shall be published in the **Federal Register**.

Dated: November 24, 2014.

John F. Kerry,

Secretary of State.

[FR Doc. 2014–29111 Filed 12–10–14; 8:45 am]

BILLING CODE 4710–37–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2002–12294; FMCSA–2006–26066; FMCSA–2012–0278]

Qualification of Drivers; Exemption Applications; Vision

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of renewal of exemptions; request for comments.

SUMMARY: FMCSA announces its decision to renew the exemptions from the vision requirement in the Federal Motor Carrier Safety Regulations for 25 individuals. FMCSA has statutory authority to exempt individuals from the vision requirement if the exemptions granted will not compromise safety. The Agency has concluded that granting these exemption renewals will provide a level of safety that is equivalent to or greater than the level of safety maintained without the exemptions for these commercial motor vehicle (CMV) drivers.

DATES: This decision is effective January 9, 2015. Comments must be received on or before January 12, 2015.

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) numbers: Docket No. [Docket No. FMCSA–2002–12294; FMCSA–2006–26066; FMCSA–2012–0278], using any of the following methods:

- Federal eRulemaking Portal: Go to *http://www.regulations.gov*. Follow the on-line instructions for submitting comments.
- Mail: Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- Hand Delivery or Courier: West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.
- Fax: 1–202–493–2251.

Instructions: Each submission must include the Agency name and the docket number for this notice. Note that DOT posts all comments received without change to *http://www.regulations.gov,* including any personal information included in a comment. Please see the Privacy Act heading below.

Docket: For access to the docket to read background documents or comments, go to *http://www.regulations.gov* at any time or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Federal Docket Management System (FDMS) is available 24 hours each day, 365 days each year. If you want acknowledgment that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments on-line.

Privacy Act: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.dot.gov/privacy*.

FOR FURTHER INFORMATION CONTACT: Elaine M. Papp, R.N., Chief, Medical Programs Division, 202–366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue SE., Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m. Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

I. Background

Under 49 U.S.C. 31136(e) and 31315, FMCSA may renew an exemption from the vision requirements in 49 CFR 391.41(b)(10), which applies to drivers of CMVs in interstate commerce, for a two-year period if it finds ''such exemption would likely achieve a level of safety that is equivalent to or greater than the level that would be achieved absent such exemption.'' The procedures for requesting an exemption (including renewals) are set out in 49 CFR part 381.

II. Exemption Decision

This notice addresses 25 individuals who have requested renewal of their exemptions in accordance with FMCSA procedures. FMCSA has evaluated these 25 applications for renewal on their merits and decided to extend each exemption for a renewable two-year period. They are:

Dennis M. Boggs (OH)
David L. Cattoor (NV)
Jose S. Chavez (AZ)
Cesar A. Cruz (IL)
Arthur Dolengewicz (NY)
Wayne A. Elkins, II (OH)
Barry J. Ferdinando (NH)
Guadalupe J. Hernandez (IN)
Gary T. Hicks (NC)
Richard G. Isenhart (WV)
Kenneth Liuzza (LA)
Samson B. Margison (OH)
Michael W. McClain (CO)
Terrence L. McKinney (TX)
Ellis T. McKneely (LA)
Dennis N. McQuiston (WA)
Garth R. Mero (VT)
Ronald C. Morris (NV)
Randal C. Schmude (WI)
Steven M. Scholfield (KY)
Dennis J. Smith (CO)
David C. Stitt (KS)
Kevin L. Truxell (FL)
Bruce A. Walker (WI)
Lee A. Wiltjer (IL)

The exemptions are extended subject to the following conditions: (1) That each individual has a physical examination every year (a) by an ophthalmologist or optometrist who attests that the vision in the better eye continues to meet the requirements in 49 CFR 391.41(b)(10), and (b) by a medical examiner who attests that the individual is otherwise physically qualified under 49 CFR 391.41; (2) that each individual provides a copy of the ophthalmologist's or optometrist's report to the medical examiner at the time of the annual medical examination; and (3) that each individual provide a copy of the annual medical certification to the employer for retention in the driver's qualification file and retains a

copy of the certification on his/her person while driving for presentation to a duly authorized Federal, State, or local enforcement official. Each exemption will be valid for two years unless rescinded earlier by FMCSA. The exemption will be rescinded if: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315.

III. Basis for Renewing Exemptions

Under 49 U.S.C. 31315(b)(1), an exemption may be granted for no longer than two years from its approval date and may be renewed upon application for additional two year periods. In accordance with 49 U.S.C. 31136(e) and 31315, each of the 25 applicants has satisfied the entry conditions for obtaining an exemption from the vision requirements (67 FR 46018; 67 FR 57267; 69 FR 51346; 71 FR 50970; 71 FR 63379; 72 FR 1051; 73 FR 75806; 73 FR 78423; 75 FR 77951; 75 FR 79083; 77 FR 59248; 77 FR 71669; 77 FR 74730; 77 FR 74734). Each of these 25 applicants has requested renewal of the exemption and has submitted evidence showing that the vision in the better eye continues to meet the requirement specified at 49 CFR 391.41(b)(10) and that the vision impairment is stable. In addition, a review of each record of safety while driving with the respective vision deficiencies over the past two years indicates each applicant continues to meet the vision exemption requirements.

These factors provide an adequate basis for predicting each driver's ability to continue to drive safely in interstate commerce. Therefore, FMCSA concludes that extending the exemption for each renewal applicant for a period of two years is likely to achieve a level of safety equal to that existing without the exemption.

IV. Public Participation and Request for Comments

FMCSA encourages you to participate by submitting comments and related materials.

Submitting Comments

If you submit a comment, please include the docket number for this notice (FMCSA–2002–12294; FMCSA–2006–26066; FMCSA–2012–0278), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so the Agency can contact you if it has questions regarding your submission.

To submit your comment online, go to *http://www.regulations.gov* and put the docket number, ''FMCSA–2002–12294; FMCSA–2006–26066; FMCSA–2012–0278'' in the ''Keyword'' box, and click ''Search.'' When the new screen appears, click on ''Comment Now!'' button and type your comment into the text box in the following screen. Choose whether you are submitting your comment as an individual or on behalf of a third party and then submit. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope. FMCSA will consider all comments and material received during the comment period and may change this notice based on your comments.

Viewing Comments and Documents

To view comments, as well as any documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov* and in the search box insert the docket number, ''FMCSA–2002–12294; FMCSA–2006–26066; FMCSA–2012–0278'' in the ''Keyword'' box and click ''Search.'' Next, click ''Open Docket Folder'' button choose the document listed to review. If you do not have access to the Internet, you may view the docket online by visiting the Docket Management Facility in Room W12–140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays.

Issued on: December 4, 2014.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2014–29071 Filed 12–10–14; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2000–7006; FMCSA–2004–18885; FMCSA–2008–0292; FMCSA–2010–0287; FMCSA–2010–0354]

Qualification of Drivers; Exemption Applications; Vision

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of renewal of exemptions; request for comments.

SUMMARY: FMCSA announces its decision to renew the exemptions from the vision requirement in the Federal Motor Carrier Safety Regulations for 29 individuals. FMCSA has statutory authority to exempt individuals from the vision requirement if the exemptions granted will not compromise safety. The Agency has concluded that granting these exemption renewals will provide a level of safety that is equivalent to or greater than the level of safety maintained without the exemptions for these commercial motor vehicle (CMV) drivers.

DATES: This decision is effective January 12, 2015. Comments must be received on or before January 12, 2015.

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) numbers: Docket No. [Docket No. FMCSA–2000–7006; FMCSA–2004–18885; FMCSA–2008–0292; FMCSA–2010–0287; FMCSA–2010–0354], using any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the on-line instructions for submitting comments.
- *Mail:* Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.
- *Fax:* 1–202–493–2251.

Instructions: Each submission must include the Agency name and the docket number for this notice. Note that DOT posts all comments received without change to *http://www.regulations.gov,* including any personal information included in a comment. Please see the Privacy Act heading below.

Docket: For access to the docket to read background documents or comments, go to *http://www.regulations.gov* at any time or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Federal Docket Management System (FDMS) is available 24 hours each day, 365 days each year. If you want acknowledgment that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments on-line.

Privacy Act: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.dot.gov/privacy.*

FOR FURTHER INFORMATION CONTACT:

Elaine M. Papp, R.N., Chief, Medical Programs Division, 202–366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue SE., Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m. Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

I. Background

Under 49 U.S.C. 31136(e) and 31315, FMCSA may renew an exemption from the vision requirements in 49 CFR 391.41(b)(10), which applies to drivers of CMVs in interstate commerce, for a two-year period if it finds ''such exemption would likely achieve a level of safety that is equivalent to or greater than the level that would be achieved absent such exemption.'' The procedures for requesting an exemption (including renewals) are set out in 49 CFR part 381.

II. Exemption Decision

This notice addresses 29 individuals who have requested renewal of their exemptions in accordance with FMCSA procedures. FMCSA has evaluated these 29 applications for renewal on their merits and decided to extend each exemption for a renewable two-year period. They are:

Charles H. Akers, Jr. (VA)
Kurtis A. Anderson (SD)
Terry L. Anderson (PA)
Sammy J. Barada (NE)
Timothy Bradford (TN)
Cody W. Cook (OK)
Marvin R. Daly (SC)
Douglas K. Esp (MT)
Roger C. Evans, II (WI)
Jevont D. Fells (AL)
Steven C. Fox (NC)
Gary A. Golson (AL)
Donald L. Hamrick (KS)
William E. Jacobs (TX)
Gary L. Killian (NC)
Timothy R. McCullough (FL)
Marcus L. McMillin (FL)
George C. Milks (NY)
Daniel R. Murphy (WI)
Thomas L. Oglesby (GA)
Jonathan C. Rollings (IA)
Preston S. Salisbury (MT)
Victor M. Santana (CA)
Kevin W. Schaffer (IL)
Gerald E. Skalitzky (WI)
George A. Teti (FL)
David W. Ward (NC)
Patricia A. White (IL)
Ralph W. York (NM)

The exemptions are extended subject to the following conditions: (1) That each individual has a physical examination every year (a) by an ophthalmologist or optometrist who attests that the vision in the better eye continues to meet the requirements in 49 CFR 391.41(b)(10), and (b) by a medical examiner who attests that the individual is otherwise physically qualified under 49 CFR 391.41; (2) that each individual provides a copy of the ophthalmologist's or optometrist's report to the medical examiner at the time of the annual medical examination; and (3) that each individual provide a copy of the annual medical certification to the employer for retention in the driver's qualification file and retains a copy of the certification on his/her person while driving for presentation to a duly authorized Federal, State, or local enforcement official. Each exemption will be valid for two years unless rescinded earlier by FMCSA. The exemption will be rescinded if: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315.

III. Basis for Renewing Exemptions

Under 49 U.S.C. 31315(b)(1), an exemption may be granted for no longer than two years from its approval date and may be renewed upon application for additional two year periods. In accordance with 49 U.S.C. 31136(e) and 31315, each of the 29 applicants has satisfied the entry conditions for obtaining an exemption from the vision requirements (65 FR 20245; 65 FR 57230; 67 FR 67234; 69 FR 53493; 69 FR 62741; 69 FR 64742; 71 FR 62147; 71 FR 62148; 73 FR 61922; 73 FR 61925; 73 FR 74563; 73 FR 74565; 75 FR 59327; 75 FR 66423; 75 FR 69737; 75 FR 72863; 75 FR 77949; 76 FR 1499; 76 FR 2190; 77 FR 68199; 77 FR 74273). Each of these 29 applicants has requested renewal of the exemption and has submitted evidence showing that the vision in the better eye continues to meet the requirement specified at 49 CFR 391.41(b)(10) and that the vision impairment is stable. In addition, a review of each record of safety while driving with the respective vision deficiencies over the past two years indicates each applicant continues to meet the vision exemption requirements. These factors provide an adequate basis for predicting each driver's ability to continue to drive safely in interstate commerce. Therefore, FMCSA concludes that extending the exemption for each renewal applicant for a period of two years is likely to achieve a level of safety equal to that existing without the exemption.

IV. Public Participation and Request for Comments

FMCSA encourages you to participate by submitting comments and related materials.

Submitting Comments

If you submit a comment, please include the docket number for this notice (FMCSA–2000–7006; FMCSA–2004–18885; FMCSA–2008–0292; FMCSA–2010–0287; FMCSA–2010–0354), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so the Agency can contact you if it has questions regarding your submission.

To submit your comment online, got to *http://www.regulations.gov* and put the docket number, ''FMCSA–2000–7006; FMCSA–2004–18885; FMCSA–2008–0292; FMCSA–2010–0287; FMCSA–2010–0354'' in the ''Keyword'' box, and click ''Search.'' When the new screen appears, click on ''Comment Now!'' button and type your comment into the text box in the following screen. Choose whether you are submitting your comment as an individual or on behalf of a third party and then submit. If you

submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope. FMCSA will consider all comments and material received during the comment period and may change this notice based on your comments.

Viewing Comments and Documents

To view comments, as well as any documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov* and in the search box insert the docket number, ''FMCSA–2000–7006; FMCSA–2004–18885; FMCSA–2008–0292; FMCSA–2010–0287; FMCSA–2010–0354'' in the ''Keyword'' box and click ''Search.'' Next, click ''Open Docket Folder'' button choose the document listed to review. If you do not have access to the Internet, you may view the docket online by visiting the Docket Management Facility in Room W12–140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays.

Issued on: December 4, 2014.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2014–29069 Filed 12–10–14; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–1999–6156; FMCSA–2000–7363; FMCSA–2004–18885; FMCSA–2008–0231; FMCSA–2010–0187; FMCSA–2010–0327; FMCSA–2012–0279]

Qualification of Drivers; Exemption Applications; Vision

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of renewal of exemptions; request for comments.

SUMMARY: FMCSA announces its decision to renew the exemptions from the vision requirement in the Federal Motor Carrier Safety Regulations for 11 individuals. FMCSA has statutory authority to exempt individuals from the vision requirement if the exemptions granted will not compromise safety. The Agency has concluded that granting these exemption renewals will provide a level of safety that is equivalent to or greater than the level of safety maintained without the exemptions for these commercial motor vehicle (CMV) drivers.

DATES: This decision is effective January 3, 2015. Comments must be received on or before January 12, 2015.

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) numbers: Docket No. [Docket No. FMCSA–1999–6156; FMCSA–2000–7363; FMCSA–2004–18885; FMCSA–2008–0231; FMCSA–2010–0187; FMCSA–2010–0327; FMCSA–2012–0279], using any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the on-line instructions for submitting comments.
- *Mail:* Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- *Fax:* 1–202–493–2251.

Instructions: Each submission must include the Agency name and the docket number for this notice. Note that DOT posts all comments received without change to *http://www.regulations.gov,* including any personal information included in a comment. Please see the Privacy Act heading below.

Docket: For access to the docket to read background documents or comments, go to *http://www.regulations.gov* at any time or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Federal Docket Management System (FDMS) is available 24 hours each day, 365 days each year. If you want acknowledgment that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments on-line.

Privacy Act: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.dot.gov/privacy.*

FOR FURTHER INFORMATION CONTACT: Elaine M. Papp, R.N., Chief, Medical Programs Division, 202–366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue SE., Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m. Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

I. Background

Under 49 U.S.C. 31136(e) and 31315, FMCSA may renew an exemption from the vision requirements in 49 CFR 391.41(b)(10), which applies to drivers of CMVs in interstate commerce, for a two-year period if it finds ''such exemption would likely achieve a level of safety that is equivalent to or greater than the level that would be achieved absent such exemption.'' The procedures for requesting an exemption (including renewals) are set out in 49 CFR part 381.

II. Exemption Decision

This notice addresses 11 individuals who have requested renewal of their exemptions in accordance with FMCSA procedures. FMCSA has evaluated these 11 applications for renewal on their merits and decided to extend each exemption for a renewable two-year period. They are:

Larry D. Brown (MD)
Nathan A. Buckles (IN)
David D. Bungori, Jr. (MD)
Robert J. Clarke (NY)
David R. Cox (OR)
Victor B. Hawks (VA)
Robert T. Hill (AL)
Laine Lewin (MN)
Leonardo Lopez, Jr. (NJ)
John C. McLaughlin (SD)
Larry D. Wedekind (TX)

The exemptions are extended subject to the following conditions: (1) That each individual has a physical examination every year (a) by an ophthalmologist or optometrist who attests that the vision in the better eye continues to meet the requirements in 49 CFR 391.41(b)(10), and (b) by a medical examiner who attests that the individual is otherwise physically qualified under 49 CFR 391.41; (2) that each individual provides a copy of the ophthalmologist's or optometrist's report to the medical examiner at the time of the annual medical examination; and (3) that each individual provide a copy of the annual medical certification to the employer for retention in the driver's qualification file and retains a

copy of the certification on his/her person while driving for presentation to a duly authorized Federal, State, or local enforcement official. Each exemption will be valid for two years unless rescinded earlier by FMCSA. The exemption will be rescinded if: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315.

III. Basis for Renewing Exemptions

Under 49 U.S.C. 31315(b)(1), an exemption may be granted for no longer than two years from its approval date and may be renewed upon application for additional two year periods. In accordance with 49 U.S.C. 31136(e) and 31315, each of the 11 applicants has satisfied the entry conditions for obtaining an exemption from the vision requirements (64 FR 54948; 65 FR 159; 65 FR 45817; 65 FR 77066; 66 FR 66969; 67 FR 71610; 69 FR 53493; 69 FR 62742; 69 FR 64810; 69 FR 8260; 71 FR 19604; 71 FR 62147; 72 FR 185; 73 FR 36954; 73 FR 46973; 73 FR 54888; 73 FR 54889; 73 FR 75806; 73 FR 75807; 75 FR 47883; 75 FR 50799; 75 FR 52063; 75 FR 63255; 75 FR 65057; 75 FR 77591; 75 FR 77951; 75 FR 79081; 77 FR 60008; 77 FR 60010; 77 FR 68202; 77 FR 70537; 77 FR 71671; 77 FR 74730). Each of these 11 applicants has requested renewal of the exemption and has submitted evidence showing that the vision in the better eye continues to meet the requirement specified at 49 CFR 391.41(b)(10) and that the vision impairment is stable. In addition, a review of each record of safety while driving with the respective vision deficiencies over the past two years indicates each applicant continues to meet the vision exemption requirements.

These factors provide an adequate basis for predicting each driver's ability to continue to drive safely in interstate commerce. Therefore, FMCSA concludes that extending the exemption for each renewal applicant for a period of two years is likely to achieve a level of safety equal to that existing without the exemption.

IV. Public Participation and Request for Comments

FMCSA encourages you to participate by submitting comments and related materials.

Submitting Comments

If you submit a comment, please include the docket number for this notice (FMCSA–1999–6156; FMCSA–2000–7363; FMCSA–2004–18885; FMCSA–2008–0231; FMCSA–2010–0187; FMCSA–2010–0327; FMCSA–2012–0279), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so the Agency can contact you if it has questions regarding your submission.

To submit your comment online, go to *http://www.regulations.gov* and put the docket number, ''FMCSA–1999–6156; FMCSA–2000–7363; FMCSA–2004–18885; FMCSA–2008–0231; FMCSA–2010–0187; FMCSA–2010–0327; FMCSA–2012–0279'' in the ''Keyword'' box, and click ''Search.'' When the new screen appears, click on ''Comment Now!'' button and type your comment into the text box in the following screen. Choose whether you are submitting your comment as an individual or on behalf of a third party and then submit. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope. FMCSA will consider all comments and material received during the comment period and may change this notice based on your comments.

Viewing Comments and Documents

To view comments, as well as any documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov* and in the search box insert the docket number, ''FMCSA–1999–6156; FMCSA–2000–7363; FMCSA–2004–18885; FMCSA–2008–0231; FMCSA–2010–0187; FMCSA–2010–0327; FMCSA–2012–0279'' in the ''Keyword'' box and click ''Search.'' Next, click ''Open Docket Folder'' button choose the document listed to review. If you do not have access to the Internet, you may view the docket online by visiting the Docket Management Facility in Room W12–140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays.

Issued on: December 4, 2014.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2014–29033 Filed 12–10–14; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2013–0442]

Qualification of Drivers; Exemption Applications; Epilepsy and Seizure Disorders

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of final disposition.

SUMMARY: FMCSA announces its decision to grant requests from 9 individuals for exemptions from the regulatory requirement that interstate commercial motor vehicle (CMV) drivers have ''no established medical history or clinical diagnosis of epilepsy or any other condition which is likely to cause loss of consciousness or any loss of ability to control a CMV.'' The regulation and the associated advisory criteria published in the Code of Federal Regulations as the ''Instructions for Performing and Recording Physical Examinations'' have resulted in numerous drivers being prohibited from operating CMVs in interstate commerce based on the fact that they have had one or more seizures and are taking anti-seizure medication, rather than an individual analysis of their circumstances by a qualified medical examiner. The Agency concluded that granting exemptions for these CMV drivers will provide a level of safety that is equivalent to or greater than the level of safety maintained without the exemptions. FMCSA grants exemptions that will allow these 9 individuals to operate CMVs in interstate commerce for a 2-year period. The exemptions preempt State laws and regulations and may be renewed.

DATES: The exemptions are effective December 11, 2014. The exemptions expire on December 12, 2016.

FOR FURTHER INFORMATION CONTACT: Elaine M. Papp, Division Chief, Physical Qualifications, Office of Medical Programs, (202) 366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue SE., Room W64–224, Washington, DC 20590–0001. Office hours are 8:30 a.m. to 5 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

A. Electronic Access

You may see all the comments online through the Federal Document Management System (FDMS) at: *http://www.regulations.gov.*

Docket: For access to the docket to read background documents or comments, go to *http://www.regulations.gov* and/or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays.

Privacy Act: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.dot.gov/privacy.*

B. Background

Under 49 U.S.C. 31136(e) and 31315(b), FMCSA may grant an exemption from the safety regulations for a 2-year period if it finds ''such exemption would likely achieve a level of safety that is equivalent to or greater than the level that would be achieved absent such exemption.'' The statute also allows the Agency to renew exemptions at the end of the 2-year period.

FMCSA grants 9 individuals an exemption from the regulatory requirement in § 391.41(b)(8), to allow these individuals who take anti-seizure medication to operate CMVs in interstate commerce for a 2-year period. The Agency's decision on these exemption applications is based on an individualized assessment of each applicant's medical information, including the root cause of the respective seizure(s), the length of time elapsed since the individual's last seizure, and each individual's treatment regimen. In addition, the Agency reviewed each applicant's driving record found in the Commercial Driver's License Information System (CDLIS) [1] for commercial driver's license (CDL) holders, and interstate and intrastate inspections recorded in Motor Carrier Management Information System (MCMIS).[2] For non-CDL holders, the Agency reviewed the driving records from the State licensing agency. The Agency acknowledges the potential consequences of a driver experiencing a seizure while operating a CMV. However, the Agency believes the drivers covered by the exemptions granted here have demonstrated that they are unlikely to have a seizure and their medical condition does not pose a risk to public safety.

In reaching the decision to grant these exemption requests, the Agency considered both current medical literature and information and the 2007 recommendations of the Agency's Medical Expert Panel (MEP). The Agency previously gathered evidence for potential changes to the regulation at 49 CFR 391.41(b)(8) by conducting a comprehensive review of scientific literature that was compiled into the ''*Evidence Report on Seizure Disorders and Commercial Vehicle Driving*'' (*Evidence Report*) [CD–ROM HD TL230.3 .E95 2007]. The Agency then convened a panel of medical experts in the field of neurology (the MEP) on May 14–15, 2007, to review 49 CFR 391.41(b)(8) and the advisory criteria regarding individuals who have experienced a seizure, and the 2007 *Evidence Report.* The *Evidence Report* and the MEP recommendations are published on-line at *http://www.fmcsa.dot.gov/rules-regulations/topics/mep/mep-reports.htm,* under Seizure Disorders, and are in the docket for this notice.

MEP Criteria for Evaluation

On October 15, 2007, the MEP issued the following recommended criteria for evaluating whether an individual with epilepsy or a seizure disorder should be allowed to operate a CMV.[3] The MEP recommendations are included in previously published dockets.

Epilepsy diagnosis. If there is an *epilepsy diagnosis,* the applicant should be seizure-free for *8 years, on or off medication.* If the individual is taking anti-seizure medication(s), the plan for medication should be stable for *2 years.* Stable means no changes in medication, dosage, or frequency of medication administration. Recertification for drivers with an epilepsy diagnosis should be performed every year.

Single unprovoked seizure. If there is a *single unprovoked seizure* (*i.e.,* there is no known trigger for the seizure), the individual should be seizure-free for *4 years, on or off medication.* If the individual is taking anti-seizure medication(s), the plan for medication should be stable for *2 years.* Stable means no changes in medication, dosage, or frequency of medication administration. Recertification for drivers with a single unprovoked seizure should be performed every 2 years.

Single provoked seizure. If there is a *single provoked seizure* (*i.e.,* there is a known reason for the seizure), the Agency should consider specific criteria that fall into the following two categories: Low-risk factors for recurrence and moderate-to-high risk factors for recurrence.

- *Examples of low-risk factors for recurrence* include seizures that were caused by a medication; by non-penetrating head injury with loss of consciousness less than or equal to 30 minutes; by a brief loss of consciousness not likely to recur while driving; by metabolic derangement not likely to recur; and by alcohol or illicit drug withdrawal.
- *Examples of moderate-to-high-risk factors for recurrence* include seizures caused by non-penetrating head injury with loss of consciousness or amnesia greater than 30 minutes, or penetrating head injury; intracerebral hemorrhage associated with a stroke or trauma; infections; intracranial hemorrhage; post-operative complications from brain surgery with significant brain hemorrhage; brain tumor; or stroke.

The MEP report indicates individuals with moderate to high-risk conditions should not be certified. Drivers with a history of a single provoked seizure with low risk factors for recurrence should be recertified every year.

Medical Review Board Recommendations and Agency Decision

FMCSA presented the MEP's findings and the *Evidence Report* to the Medical Review Board (MRB) for consideration. The MRB reviewed and considered the 2007 ''Seizure Disorders and Commercial Driver Safety'' evidence report and the 2007 MEP recommendations. The MRB recommended maintaining the current advisory criteria, which provide that ''drivers with a history of epilepsy/seizures off anti-seizure medication and seizure-free for 10 years may be qualified to drive a CMV in interstate commerce. Interstate drivers with a

[1] *Commercial Driver License Information System* (CDLIS) is an information system that allows the exchange of commercial driver licensing information among all the States. CDLIS includes the databases of fifty-one licensing jurisdictions and the CDLIS Central Site, all connected by a telecommunications network.

[2] *Motor Carrier Management Information System* (MCMIS) is an information system that captures data from field offices through SAFETYNET, CAPRI, and other sources. It is a source for FMCSA inspection, crash, compliance review, safety audit, and registration data.

[3] Engel, J., Fisher, R.S., Krauss, G.L., Krumholz, A., and Quigg, M.S., ''Expert Panel Recommendations: Seizure Disorders and Commercial Motor Vehicle Driver Safety,'' FMCSA, October 15, 2007.

history of a single unprovoked seizure may be qualified to drive a CMV in interstate commerce if seizure-free and off anti-seizure medication for a 5 year period or more'' [Advisory criteria to 49 CFR 391.43(f)].

The Agency acknowledges the MRB's position on the issue but believes relevant current medical evidence supports a less conservative approach. The medical advisory criteria for epilepsy and other seizure or loss of consciousness episodes was based on the 1988 ''Conference on Neurological Disorders and Commercial Drivers'' (NITS Accession No. PB89–158950/AS). A copy of the report can be found in the docket referenced in this notice.

The MRB's recommendation treats all drivers who have experienced a seizure the same, regardless of individual medical conditions and circumstances. In addition, the recommendation to continue prohibiting drivers who are taking anti-seizure medication from operating a CMV in interstate commerce does not consider a driver's actual seizure history and time since the last seizure. The Agency has decided to use the 2007 MEP recommendations as the basis for evaluating applications for an exemption from the seizure regulation on an individual, case-by-case basis.

C. Exemptions

Following individualized assessments of the exemption applications, including a review of detailed follow-up information requested from each applicant, FMCSA is granting exemptions from 49 CFR 391.41(b)(8) to 9 individuals. Under current FMCSA regulations, all of the 9 drivers receiving exemptions from 49 CFR 391.41(b)(8) would have been considered physically qualified to drive a CMV in interstate commerce except that they presently take or have recently stopped taking anti-seizure medication. For these 9 drivers, the primary obstacle to medical qualification was the FMCSA Advisory Criteria for Medical Examiners, based on the 1988 ''Conference on Neurological Disorders and Commercial Drivers,'' stating that a driver should be off anti-seizure medication in order to drive in interstate commerce. In fact, the Advisory Criteria have little if anything to do with the actual risk of a seizure and more to do with assumptions about individuals who are taking anti-seizure medication.

In addition to evaluating the medical status of each applicant, FMCSA evaluated the crash and violation data for the 9 drivers, some of whom currently drive a CMV in intrastate commerce. The CDLIS and MCMIS were searched for crash and violation data on the 9 applicants. For non-CDL holders, the Agency reviewed the driving records from the State licensing agency.

These exemptions are contingent on the driver maintaining a stable treatment regimen and remaining seizure-free during the 2-year exemption period. The exempted drivers must submit annual reports from their treating physicians attesting to the stability of treatment and that the driver has remained seizure-free. The driver must undergo an annual medical examination by a medical examiner, as defined by 49 CFR 390.5, following the FCMSA's regulations for the physical qualifications for CMV drivers.

FMCSA published a notice of receipt of application and requested public comment during a 30-day public comment period in a **Federal Register** notice for each of the applicants. A short summary of the applicants' qualifications and a discussion of the comments received follows this section. For applicants who were denied an exemption, a notice will be published at a later date.

D. Comments

Docket #FMCSA–2013–0442

On February 25, 2014, FMCSA published a notice of receipt of exemption applications and requested public comment on 15 individuals (79 FR 10603; Docket number FMCSA–2014–03994). The comment period ended on March 27, 2014. No commenters responded to this **Federal Register** notice. Of the 15 applicants, five were denied and one withdrew his request. The Agency has determined that the following 9 applicants should be granted an exemption.

Charles Blood

Mr. Blood is a 60 year-old class B CDL holder in New York. He has a history of seizure disorder and has remained seizure free since 1975. He takes anti-seizure medication with the dosage and frequency remaining the same since that time. If granted the exemption, he would like to drive a CMV. His physician states he is supportive of Mr. Blood receiving an exemption.

Michael Duprey

Mr. Duprey is a 53 year-old class A CDL holder in Connecticut. He has a history of post traumatic seizure disorder and has remained seizure free since 1992. He takes anti-seizure medication with the dosage and frequency remaining the same since that time. If granted the exemption, he would like to drive a CMV. His physician states he is supportive of Mr. Duprey receiving an exemption.

Kenneth Hovey

Mr. Hovey is a 52 year-old class A CDL holder in Oklahoma. He has a history of seizure and has remained seizure free for at least 10 years. He takes anti-seizure medication with the dosage and frequency remaining the same for 10 years. If granted the exemption, he would like to continue to drive a CMV. His physician states he is supportive of Mr. Hovey receiving an exemption.

Raymond Lobo

Mr. Lobo is a 24 year-old driver in New Jersey. He has a history of 2 possible seizures and has remained seizure free for 10 years. He takes anti-seizure medication with the dosage and frequency remaining the same for over 2 years. If granted the exemption, he would like to drive a CMV. His physician states he is supportive of Mr. Lobo receiving an exemption.

Randy Pinto

Mr. Pinto is a 24 year-old class B CDL holder in Pennsylvania. He has a history of seizure disorder and has remained seizure free for 9 years. He takes anti-seizure medication with the dosage and frequency remaining the same since that time. If granted the exemption, he would like to drive a CMV. His physician states he is supportive of Mr. Pinto receiving an exemption.

Brent Robinson

Mr. Robinson is a 33 year-old driver in North Carolina. He has a history of seizure and has remained seizure free for over 10 years. He has not taken anti-seizure medication for over 6 years. If granted the exemption, he would like to drive a CMV. His physician states he is supportive of Mr. Robinson receiving an exemption.

James Spece

Mr. Spece is a 55 year-old driver in Pennsylvania. He has a history of seizure disorder and has remained seizure free for 10 years. He takes anti-seizure medication with the dosage and frequency remaining the same for 4 years. If granted the exemption, he would like to drive a CMV. His physician states he is supportive of Mr. Spece receiving an exemption.

Douglas Teigland

Mr. Teigland is a 57 year-old driver in Minnesota. He has a history of seizure and has remained seizure free since 1978. He takes anti-seizure medication with the dosage and frequency remaining the same since that time. If granted the exemption, he would like to drive a CMV. His physician states he is

supportive of Mr. Teigland receiving an exemption.

Joseph Thomas

Mr. Thomas is a 26 year-old class A CDL holder in Maryland. He has a history of seizure and has remained seizure free since 2000. He takes anti-seizure medication with the dosage and frequency remaining the same since that time. If granted the exemption, he would like to drive a CMV. His physician states he is supportive of Mr. Thomas receiving an exemption.

E. Basis for Exemption

Under 49 U.S.C. 31136(e) and 31315(b), FMCSA may grant an exemption from the epilepsy/seizure standard in 49 CFR 391.41(b)(8) if the exemption is likely to achieve an equivalent or greater level of safety than would be achieved without the exemption. Without the exemption, applicants will continue to be restricted to intrastate driving. With the exemption, applicants can drive in interstate commerce. Thus, the Agency's analysis focuses on whether an equal or greater level of safety is likely to be achieved by permitting each of these drivers to drive in interstate commerce as opposed to restricting the driver to driving in intrastate commerce.

Conclusion

The Agency is granting exemptions from the epilepsy standard, 49 CFR 391.41(b)(8), to 9 individuals based on a thorough evaluation of each driver's safety experience, and medical condition. Safety analysis of information relating to these 9 applicants meets the burden of showing that granting the exemptions would achieve a level of safety that is equivalent to or greater than the level that would be achieved without the exemption. By granting the exemptions, the interstate CMV industry will gain 9 highly trained and experienced drivers. In accordance with 49 U.S.C. 31315(b)(1), each exemption will be valid for 2 years, with annual recertification required unless revoked earlier by FMCSA. The exemption will be revoked if the following occurs: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained prior to being granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136 and 31315.

FMCSA exempts the following 9 drivers for a period of 2 years with annual medical certification required: Charles Blood (NY); Michael Duprey (CT); Kenneth Hovey (OK); Raymond Lobo (NJ); Randy Pinto (PA); Brent Robinson (NC); James Spece (PA); Douglas Teigland (MN); and Joseph Thomas (MD) from the prohibition of CMV operations by persons with a clinical diagnosis of epilepsy or seizures. If the exemption is still in effect at the end of the 2-year period, the person may apply to FMCSA for a renewal under procedures in effect at that time.

Issued on: December 4, 2014.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2014–29070 Filed 12–10–14; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2013–0445]

Qualification of Drivers; Exemption Applications; Epilepsy and Seizure Disorders

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of final disposition.

SUMMARY: FMCSA announces its decision to grant requests from 5 individuals for exemptions from the regulatory requirement that interstate commercial motor vehicle (CMV) drivers have ''no established medical history or clinical diagnosis of epilepsy or any other condition which is likely to cause loss of consciousness or any loss of ability to control a CMV.'' The regulation and the associated advisory criteria published in the Code of Federal Regulations as the ''Instructions for Performing and Recording Physical Examinations'' have resulted in numerous drivers being prohibited from operating CMVs in interstate commerce based on the fact that they have had one or more seizures and are taking anti-seizure medication, rather than an individual analysis of their circumstances by a qualified medical examiner. The Agency concluded that granting exemptions for these CMV drivers will provide a level of safety that is equivalent to or greater than the level of safety maintained without the exemptions. FMCSA grants exemptions that will allow these 5 individuals to operate CMVs in interstate commerce for a 2-year period. The exemptions preempt State laws and regulations and may be renewed.

DATES: The exemptions are effective December 11, 2014. The exemptions expire on December 12, 2016.

FOR FURTHER INFORMATION CONTACT: Elaine M. Papp, Division Chief, Physical Qualifications, Office of Medical Programs, (202) 366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue SE., Room W64–224, Washington, DC 20590–0001. Office hours are 8:30 a.m. to 5 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

A. Electronic Access

You may see all the comments online through the Federal Document Management System (FDMS) at: *http://www.regulations.gov.*

Docket: For access to the docket to read background documents or comments, go to *http://www.regulations.gov* and/or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays.

Privacy Act: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.dot.gov/privacy.*

B. Background

Under 49 U.S.C. 31136(e) and 31315(b), FMCSA may grant an exemption from the safety regulations for a 2-year period if it finds ''such exemption would likely achieve a level of safety that is equivalent to or greater than the level that would be achieved absent such exemption.'' The statute also allows the Agency to renew exemptions at the end of the 2-year period.

FMCSA grants 5 individuals an exemption from the regulatory requirement in § 391.41(b)(8), to allow these individuals who take anti-seizure medication to operate CMVs in interstate commerce for a 2-year period. The Agency's decision on these exemption applications is based on an individualized assessment of each applicant's medical information, including the root cause of the respective seizure(s), the length of time elapsed since the individual's last seizure, and each individual's treatment regimen. In addition, the Agency

reviewed each applicant's driving record found in the Commercial Driver's License Information System (CDLIS) [1] for commercial driver's license (CDL) holders, and interstate and intrastate inspections recorded in Motor Carrier Management Information System (MCMIS).[2] For non-CDL holders, the Agency reviewed the driving records from the State licensing agency. The Agency acknowledges the potential consequences of a driver experiencing a seizure while operating a CMV. However, the Agency believes the drivers covered by the exemptions granted here have demonstrated that they are unlikely to have a seizure and their medical condition does not pose a risk to public safety.

In reaching the decision to grant these exemption requests, the Agency considered both current medical literature and information and the 2007 recommendations of the Agency's Medical Expert Panel (MEP). The Agency previously gathered evidence for potential changes to the regulation at 49 CFR 391.41(b)(8) by conducting a comprehensive review of scientific literature that was compiled into the ''*Evidence Report on Seizure Disorders and Commercial Vehicle Driving''* (*Evidence Report*) [CD–ROM HD TL230.3 .E95 2007]. The Agency then convened a panel of medical experts in the field of neurology (the MEP) on May 14–15, 2007, to review 49 CFR 391.41(b)(8) and the advisory criteria regarding individuals who have experienced a seizure, and the 2007 *Evidence Report.* The *Evidence Report* and the MEP recommendations are published on-line at *http://www.fmcsa.dot.gov/rules-regulations/topics/mep/mep-reports.htm,* under Seizure Disorders, and are in the docket for this notice.

MEP Criteria for Evaluation

On October 15, 2007, the MEP issued the following recommended criteria for evaluating whether an individual with epilepsy or a seizure disorder should be allowed to operate a CMV.[3] The MEP recommendations are included in previously published dockets.

Epilepsy diagnosis. If there is an *epilepsy diagnosis,* the applicant should be seizure-free for *8 years, on or off medication.* If the individual is taking anti-seizure medication(s), the plan for medication should be stable for *2 years.* Stable means no changes in medication, dosage, or frequency of medication administration. Recertification for drivers with an epilepsy diagnosis should be performed every year.

Single unprovoked seizure. If there is a *single unprovoked seizure* (*i.e.,* there is no known trigger for the seizure), the individual should be seizure-free for *4 years, on or off medication.* If the individual is taking anti-seizure medication(s), the plan for medication should be stable for *2 years.* Stable means no changes in medication, dosage, or frequency of medication administration. Recertification for drivers with a single unprovoked seizure should be performed every 2 years.

Single provoked seizure. If there is a *single provoked seizure* (*i.e.,* there is a known reason for the seizure), the Agency should consider specific criteria that fall into the following two categories: Low-risk factors for recurrence and moderate-to-high risk factors for recurrence.

- *Examples of low-risk factors for recurrence* include seizures that were caused by a medication; by non-penetrating head injury with loss of consciousness less than or equal to 30 minutes; by a brief loss of consciousness not likely to recur while driving; by metabolic derangement not likely to recur; and by alcohol or illicit drug withdrawal.

- *Examples of moderate-to-high-risk factors for recurrence* include seizures caused by non-penetrating head injury with loss of consciousness or amnesia greater than 30 minutes, or penetrating head injury; intracerebral hemorrhage associated with a stroke or trauma; infections; intracranial hemorrhage; post-operative complications from brain surgery with significant brain hemorrhage; brain tumor; or stroke.

The MEP report indicates individuals with moderate to high-risk conditions should not be certified. Drivers with a history of a single provoked seizure with low risk factors for recurrence should be recertified every year.

Medical Review Board Recommendations and Agency Decision

FMCSA presented the MEP's findings and the *Evidence Report* to the Medical Review Board (MRB) for consideration. The MRB reviewed and considered the 2007 ''Seizure Disorders and Commercial Driver Safety'' evidence report and the 2007 MEP recommendations. The MRB recommended maintaining the current advisory criteria, which provide that ''drivers with a history of epilepsy/seizures off anti-seizure medication and seizure-free for 10 years may be qualified to drive a CMV in interstate commerce. Interstate drivers with a history of a single unprovoked seizure may be qualified to drive a CMV in interstate commerce if seizure-free and off anti-seizure medication for a 5 year period or more'' [Advisory criteria to 49 CFR 391.43(f)].

The Agency acknowledges the MRB's position on the issue but believes relevant current medical evidence supports a less conservative approach. The medical advisory criteria for epilepsy and other seizure or loss of consciousness episodes was based on the 1988 ''Conference on Neurological Disorders and Commercial Drivers'' (NITS Accession No. PB89–158950/AS). A copy of the report can be found in the docket referenced in this notice.

The MRB's recommendation treats all drivers who have experienced a seizure the same, regardless of individual medical conditions and circumstances. In addition, the recommendation to continue prohibiting drivers who are taking anti-seizure medication from operating a CMV in interstate commerce does not consider a driver's actual seizure history and time since the last seizure. The Agency has decided to use the 2007 MEP recommendations as the basis for evaluating applications for an exemption from the seizure regulation on an individual, case-by-case basis.

C. Exemptions

Following individualized assessments of the exemption applications, including a review of detailed follow-up information requested from each applicant, FMCSA is granting exemptions from 49 CFR 391.41(b)(8) to 5 individuals. Under current FMCSA regulations, all of the 5 drivers receiving exemptions from 49 CFR 391.41(b)(8) would have been considered physically qualified to drive a CMV in interstate commerce except that they presently take or have recently stopped taking anti-seizure medication. For these 5 drivers, the primary obstacle to medical qualification was the FMCSA Advisory

[1] *Commercial Driver License Information System* (CDLIS) is an information system that allows the exchange of commercial driver licensing information among all the States. CDLIS includes the databases of fifty-one licensing jurisdictions and the CDLIS Central Site, all connected by a telecommunications network.

[2] *Motor Carrier Management Information System* (MCMIS) is an information system that captures data from field offices through SAFETYNET, CAPRI, and other sources. It is a source for FMCSA inspection, crash, compliance review, safety audit, and registration data.

[3] Engel, J., Fisher, R.S., Krauss, G.L., Krumholz, A., and Quigg, M.S., ''Expert Panel Recommendations: Seizure Disorders and Commercial Motor Vehicle Driver Safety,'' FMCSA, October 15, 2007.

Criteria for Medical Examiners, based on the 1988 ''Conference on Neurological Disorders and Commercial Drivers,'' stating that a driver should be off anti-seizure medication in order to drive in interstate commerce. In fact, the Advisory Criteria have little if anything to do with the actual risk of a seizure and more to do with assumptions about individuals who are taking anti-seizure medication.

In addition to evaluating the medical status of each applicant, FMCSA evaluated the crash and violation data for the 5 drivers, some of whom currently drive a CMV in intrastate commerce. The CDLIS and MCMIS were searched for crash and violation data on the 5 applicants. For non-CDL holders, the Agency reviewed the driving records from the State licensing agency.

These exemptions are contingent on the driver maintaining a stable treatment regimen and remaining seizure-free during the 2-year exemption period. The exempted drivers must submit annual reports from their treating physicians attesting to the stability of treatment and that the driver has remained seizure-free. The driver must undergo an annual medical examination by a medical examiner, as defined by 49 CFR 390.5, following the FCMSA's regulations for the physical qualifications for CMV drivers.

FMCSA published a notice of receipt of application and requested public comment during a 30-day public comment period in a **Federal Register** notice for each of the applicants. A short summary of the applicants' qualifications and a discussion of the comments received follows this section. For applicants who were denied an exemption, a notice will be published at a later date.

D. Comments

Docket # FMCSA–2013–0445

On June 3, 2014, FMCSA published a notice of receipt of exemption applications and requested public comment on 11 individuals (79 FR 32014; Docket number FMCSA–2014–12790). The comment period ended on April 21, 2014. One anonymous commenter responded to this notice expressing support for her husband getting an exemption. Of the 11 applicants, six were denied. The Agency has determined that the following five applicants should be granted an exemption.

Ronald G. Blount, Jr.

Mr. Blount is a 33 year-old class A CDL holder in Georgia. He has a history of seizure and has remained seizure free since 2005. He takes anti-seizure medication with the dosage and frequency remaining the same since that time. If granted the exemption, he would like to drive a CMV. His physician states that he is supportive of Mr. Blount receiving an exemption.

John S. Darden, Jr.

Mr. Darden is a 39 year-old driver in California. He has a history of seizure and his last seizure was in 1996. He takes anti-seizure medication with the dosage and frequency remaining the same for over 2 years. If granted the exemption, he would like to drive a CMV. His physician states that he is supportive of Mr. Darden receiving an exemption.

Randy S. Hoffmann

Mr. Hoffman is a 46 year-old driver in Pennsylvania. He has a history of seizure and has remained seizure free since 1999. He takes anti-seizure medication with the dosage and frequency remaining the same since that time. If granted the exemption, he would like to drive a CMV. His physician states that he is supportive of Mr. Hoffman receiving an exemption.

Marcus Reamon

Mr. Reamon is a 36 year-old driver in Virginia. He has a history of a seizure and has remained seizure seizure since 2008. He takes anti-seizure medication with the dosage and frequency remaining the same since that time. If granted the exemption, he would like to drive a CMV. His physician states that he is supportive of Mr. Reamon receiving an exemption.

Paul D. Thompson

Mr. Thompson is a 51 year-old driver in Oklahoma. He has a history of seizure disorder and has remained seizure free since 1991. He takes anti-seizure medication with the dosage and frequency remaining the same since that time. If granted the exemption, he would like to drive a CMV. His physician states that he is supportive of Mr. Thompson receiving an exemption.

E. Basis for Exemption

Under 49 U.S.C. 31136(e) and 31315(b), FMCSA may grant an exemption from the epilepsy/seizure standard in 49 CFR 391.41(b)(8) if the exemption is likely to achieve an equivalent or greater level of safety than would be achieved without the exemption. Without the exemption, applicants will continue to be restricted to intrastate driving. With the exemption, applicants can drive in interstate commerce. Thus, the Agency's analysis focuses on whether an equal or greater level of safety is likely to be achieved by permitting each of these drivers to drive in interstate commerce as opposed to restricting the driver to driving in intrastate commerce.

Conclusion

The Agency is granting exemptions from the epilepsy standard, 49 CFR 391.41(b)(8), to 5 individuals based on a thorough evaluation of each driver's safety experience, and medical condition. Safety analysis of information relating to these 5 applicants meets the burden of showing that granting the exemptions would achieve a level of safety that is equivalent to or greater than the level that would be achieved without the exemption. By granting the exemptions, the interstate CMV industry will gain 5 highly trained and experienced drivers. In accordance with 49 U.S.C. 31315(b)(1), each exemption will be valid for 2 years, with annual recertification required unless revoked earlier by FMCSA. The exemption will be revoked if the following occurs: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained prior to being granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136 and 31315.

FMCSA exempts the following 5 drivers for a period of 2 years with annual medical certification required: Ronald Blount, Jr. (GA); John Darden, Jr. (CA); Randy Hoffman (PA); Marcus Reamon (VA); and Paul Thompson (OK) from the prohibition of CMV operations by persons with a clinical diagnosis of epilepsy or seizures. If the exemption is still in effect at the end of the 2-year period, the person may apply to FMCSA for a renewal under procedures in effect at that time.

Issued on: December 4, 2014.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2014–29072 Filed 12–10–14; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2006–24278; FMCSA–2006–25854; FMCSA–2008–0355; FMCSA–2010–0203; FMCSA–2011–0089]

Qualification of Drivers; Exemption Applications; Epilepsy and Seizure Disorders

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of renewal of exemptions; request for comments.

SUMMARY: FMCSA announces its decision to renew the exemptions from the Epilepsy and Seizure Disorders requirement in the Federal Motor Carrier Safety Regulations for 9 individuals. FMCSA has statutory authority to exempt individuals from the Epilepsy and Seizure Disorders requirement if the exemptions granted will not compromise safety. The Agency has concluded that granting these exemption renewals will provide a level of safety that is equivalent to or greater than the level of safety maintained without the exemptions for these commercial motor vehicle (CMV) drivers.

DATES: This decision is effective December 1, 2014. Comments must be received on or before January 12, 2015.

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) numbers: Docket No. [Docket No. FMCSA–2006–24278; FMCSA–2006–25854; FMCSA–2008–0355; FMCSA–2010–0203; FMCSA–2011–0089], using any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the on-line instructions for submitting comments.
- *Mail:* Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.
- *Fax:* 1–202–493–2251.

Instructions: Each submission must include the Agency name and the docket number for this notice. Note that DOT posts all comments received without change to *http://www.regulations.gov,* including any personal information included in a comment. Please see the Privacy Act heading below.

Docket: For access to the docket to read background documents or comments, go to *http://www.regulations.gov* at any time or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Federal Docket Management System (FDMS) is available 24 hours each day, 365 days each year. If you want acknowledgment that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments on-line.

C. Privacy Act

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.dot.gov/privacy.*

FOR FURTHER INFORMATION CONTACT: Elaine M. Papp, Chief, Medical Programs Division, 202–366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue SE., Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m. Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 31136(e) and 31315, FMCSA may renew an exemption from the Epilepsy and Seizure Disorders requirements in 49 CFR 391.41(b)(8), which applies to drivers of CMVs in interstate commerce, for a two-year period if it finds ''such exemption would likely achieve a level of safety that is equivalent to or greater than the level that would be achieved absent such exemption.'' The procedures for requesting an exemption (including renewals) are set out in 49 CFR part 381.

Exemption Decision

This notice addresses 9 individuals who have requested renewal of their exemptions in accordance with FMCSA procedures. FMCSA has evaluated these applications for renewal on their merits and decided to extend each exemption for a renewable two-year period. They are:

Daniel Forth (NY)
Steven L. Hunsaker (ID)
Henrietta M. Ketcham (NY)
Shane Klementis (NY)
Robin L. Sherwood (ID)
Wayne C. Sorensen (MN)
Michael W. Thomas (KS)
Paul C. Warren (ME)
John B. Yates (WV)

These exemptions are extended subject to the driver maintaining a stable treatment regimen and remaining seizure-free during the 2-year exemption period. The exempted drivers must submit a physician statement from their treating physician attesting to the stability of treatment and that the driver has remained seizure-free. The driver must undergo an annual medical examination by a medical examiner, as defined by 49 CFR 390.5, following the FCMSA's regulations for the physical qualifications for CMV drivers. The exemption will be rescinded if: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315.

Basis for Renewing Exemptions

Under 49 U.S.C. 31315(b)(1), an exemption may be granted for no longer than two years from its approval date and may be renewed upon application for additional two year periods. In accordance with 49 U.S.C. 31136(e) and 31315, each of the 9 applicants has satisfied the entry conditions for obtaining an exemption from the Epilepsy and Seizure Disorder requirements (71 FR 60606; 72 FR 44916; 73 FR 75165; 75 FR 38599; 76 FR 18822). Each of these 9 applicants has requested renewal of the exemption and has submitted evidence showing that they have maintained a stable treatment regimen and remained seizure-free during the 2-year exemption period. The exempted drivers must submit a physician statement from their treating physicians attesting to the stability of treatment and that the driver has remained seizure-free. The driver must undergo an annual medical examination by a medical examiner, as defined by 49 CFR 390.5, following the FCMSA's regulations for the physical qualifications for CMV drivers. In addition to evaluating the medical status of each applicant CDLIS and MCMIS were searched for crash and violation data on the 9 applicants. For non-CDL holders, the Agency reviewed the driving records from the State licensing agency. These factors provide an adequate basis for predicting each

driver's ability to continue to drive safely in interstate commerce. Therefore, FMCSA concludes that extending the exemption for each renewal applicant for a period of two years is likely to achieve a level of safety equal to that existing without the exemption.

Request for Comments

FMCSA will review comments received at any time concerning a particular driver's safety record and determine if the continuation of the exemption is consistent with the requirements at 49 U.S.C. 31136(e) and 31315. However, FMCSA requests that interested parties with specific data concerning the safety records of these drivers submit comments by January 12, 2015.

FMCSA believes that the requirements for a renewal of an exemption under 49 U.S.C. 31136(e) and 31315 can be satisfied by initially granting the renewal and then requesting and evaluating, if needed, subsequent comments submitted by interested parties. As indicated above, the Agency previously published notices of final disposition announcing its decision to exempt these 9 individuals from the Epilepsy and Seizure Disorders requirement in 49 CFR 391.41(b)(8). The final decision to grant an exemption to each of these individuals was made on the merits of each case and made only after careful consideration of the comments received to its notices of applications. The notices of applications stated the medical condition of each applicant for an exemption from the Epilepsy and Seizure requirements. That information is available by consulting the above cited **Federal Register** publications.

Interested parties or organizations possessing information that would otherwise show that any, or all, of these drivers are not currently achieving the statutory level of safety should immediately notify FMCSA. The Agency will evaluate any adverse evidence submitted and, if safety is being compromised or if continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315, FMCSA will take immediate steps to revoke the exemption of a driver.

Submitting Comments

You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so that FMCSA can contact you if there are questions regarding your submission.

To submit your comment online, go to *http://www.regulations.gov* and in the search box insert the docket numbers FMCSA–2006–24278; FMCSA–2006–25854; FMCSA–2008–0355; FMCSA–2010–0203; FMCSA–2011–0089 and click the search button. When the new screen appears, click on the blue ''Comment Now!'' button on the right hand side of the page. On the new page, enter information required including the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period.

Viewing Comments and Documents

To view comments, as well as any documents mentioned in this notice, or to submit your comment online, go to *http://www.regulations.gov* and in the search box insert the docket number FMCSA–2006–24278; FMCSA–2006–25854; FMCSA–2008–0355; FMCSA–2010–0203; FMCSA–2011–0089 and click ''Search.'' Next, click ''Open Docket Folder'' and you will find all documents and comments related to this document.

Issued on: December 4, 2014.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2014–29068 Filed 12–10–14; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. DOT–MARAD–2014 0148]

Request for Comments of a Previously Approved Information Collection: Application for Construction Reserve Fund and Annual Statements (CRF)

AGENCY: Maritime Administration, Transportation.

ACTION: Notice and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below is being forwarded to the Office of Management and Budget (OMB) for review and comments. A **Federal Register** Notice with a 60-day comment period soliciting comments on the following information collection was published on September 18, 2014 (**Federal Register** 56119, Vol. 79, No. 181) and comments were due by November 17, 2014. No comments were received.

DATES: Comments must be submitted on or before January 12, 2015.

FOR FURTHER INFORMATION CONTACT: Daniel Ladd, 202–366–1859, Office of Financial Approvals, Maritime Administration, U.S. Department of Transportation, 1200 New Jersey Avenue SE, Washington, DC, 20590.

SUPPLEMENTARY INFORMATION:

Title: Application for Construction Reserve Fund and Annual Statements (CRF).

OMB Control Number: 2133–0032

Type of Request: Renewal of a Previously Approved Information Collection

Abstract: In accordance with Section 511 of the Merchant Marine Act of 1936, as amended, all citizens who own or operate vessels in the U.S. domestic or foreign commerce and desire ''tax'' benefits under the Construction Reserve Fund (CRF) program, are required to submit to MARAD an application for benefits. The annual statement provided to MARAD officials sets forth a detailed analysis of the CRF when each income tax return is filed. The application is required in order for MARAD to determine whether the applicant is qualified for the benefits, and the annual statements are required in order for MARAD to assure that the requirements of the program are being satisfied.

Affected Public: Owners or operators of vessels in the domestic or foreign commerce.

Estimated Number of Respondents: 17

Estimated Number of Responses: 17

Annual Estimated Total Annual Burden Hours: 153

ADDRESSES: Send comments regarding the burden estimate, including suggestions for reducing the burden, to the Office of Management and Budget, Attention: Desk Officer for the Office of the Secretary of Transportation, 725 17th Street NW., Washington, DC 20503.

Comments are invited on: whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimate of the burden of the proposed information collection;

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, including the use of automated collection techniques or other forms of information technology.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended; and 49 CFR 1.93.

Dated: December 2, 2014.

Julie P. Agarwal,

Secretary, Maritime Administration.

[FR Doc. 2014–29084 Filed 12–10–14; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2014 0150]

Requested Administrative Waiver of the Coastwise Trade Laws: Vessel RV SEA LAB; Invitation for Public Comments

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Notice.

SUMMARY: As authorized by 46 U.S.C. 12121, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below.

DATES: Submit comments on or before January 12, 2015.

ADDRESSES: Comments should refer to docket number MARAD–2014–0150. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590. You may also send comments electronically via the Internet at *http://www.regulations.gov.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Linda Williams, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE., Room W23–453, Washington, DC 20590. Telephone 202–366–0903, Email *Linda.Williams@dot.gov.*

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel RV SEA LAB is:

Intended Commercial Use Of Vessel: ''Charter six passengers for Marine Science summer camp and educational classes.''

Geographic Region: ''North Carolina, South Carolina, Georgia, Florida.''

The complete application is given in DOT docket MARAD–2014–0150 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR part 388.

Privacy Act

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78).

By Order of the Maritime Administrator.

Julie P. Agarwal,

Secretary, Maritime Administration.

[FR Doc. 2014–29081 Filed 12–10–14; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2014 0152]

Requested Administrative Waiver of the Coastwise Trade Laws: Vessel NEW WIND; Invitation for Public Comments

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Notice.

SUMMARY: As authorized by 46 U.S.C. 12121, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below.

DATES: Submit comments on or before January 12, 2015.

ADDRESSES: Comments should refer to docket number MARAD–2014–0152. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590. You may also send comments electronically via the Internet at *http://www.regulations.gov.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Linda Williams, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE., Room W23–453, Washington, DC 20590. Telephone 202–366–0903, Email *Linda.Williams@dot.gov.*

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel NEW WIND is:

Intended Commercial Use of Vessel: ''Blue World Adventure Company intends on operating a six passenger sailboat vessel. We intend on operating day sails and charters out of the Cape Coral Florida area.''

Geographic Region: ''Florida''

The complete application is given in DOT docket MARAD–2014–0152 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments

should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR part 388.

Privacy Act

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78).

By Order of the Maritime Administrator.
Dated: December 8, 2014.

Julie P. Agarwal,

Secretary, Maritime Administration.

[FR Doc. 2014–29073 Filed 12–10–14; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2014 0151]

Requested Administrative Waiver of the Coastwise Trade Laws: Vessel SEA DONKEY; Invitation for Public Comments

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Notice.

SUMMARY: As authorized by 46 U.S.C. 12121, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below.

DATES: Submit comments on or before January 12, 2015.

ADDRESSES: Comments should refer to docket number MARAD–2014–0151. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590. You may also send comments electronically via the Internet at *http://www.regulations.gov.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Linda Williams, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE., Room W23–453, Washington, DC 20590. Telephone 202–366–0903, Email *Linda.Williams@dot.gov.*

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel SEA DONKEY is:

Intended Commercial Use of Vessel: ''Transportation of up to 12 passengers for scuba diving instruction and charters''

Geographic Region: ''Texas.''

The complete application is given in DOT docket MARAD–2014–0151 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR part 388.

Privacy Act

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78).

By Order of the Maritime Administrator.
Dated: December 8, 2014.

Julie P. Agarwal,

Secretary, Maritime Administration.

[FR Doc. 2014–29080 Filed 12–10–14; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2014 0149]

Requested Administrative Waiver of the Coastwise Trade Laws: Vessel ALL YOU NEED; Invitation for Public Comments

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Notice.

SUMMARY: As authorized by 46 U.S.C. 12121, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below.

DATES: Submit comments on or before January 12, 2015.

ADDRESSES: Comments should refer to docket number MARAD–2014–0149. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590. You may also send comments electronically via the Internet at *http://www.regulations.gov.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Linda Williams, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE., Room W23–453, Washington, DC 20590. Telephone 202–366–0903, Email *Linda.Williams@dot.gov.*

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel ALL YOU NEED is:

Intended Commercial Use Of Vessel: ''Passenger charter for sightseeing, dinner cruises and sport fishing.''

Geographic Region: ''Louisiana, Mississippi, Alabama, Florida, Georgia, South Carolina, North Carolina, Virginia, Washington, DC, Maryland, Delaware, New Jersey, New York and

their inland tributaries along with Puerto Rico''

The complete application is given in DOT docket MARAD–2014–0149 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR part 388.

Privacy Act

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78).

By Order of the Maritime Administrator.
Dated: December 8, 2014.

Julie P. Agarwal,

Secretary, Maritime Administration.

[FR Doc. 2014–29083 Filed 12–10–14; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. FD 35879]

BNSF Railway Company—Temporary Trackage Rights Exemption—Union Pacific Railroad Company

Pursuant to a written temporary trackage rights agreement entered into between BNSF Railway Company (BNSF) and Union Pacific Railroad Company (UP), dated November 24, 2014, UP has agreed to grant restricted local trackage rights to BNSF as follows: (1) Between UP milepost 93.2 at Stockton, Ca., on UP's Oakland Subdivision, and UP milepost 219.4 at Elsey, Ca., on UP's Canyon Subdivision, a distance of 126.2 miles; and (2) between UP milepost 219.4 at Elsey and UP milepost 280.7 at Keddie, Ca., on UP's Canyon Subdivision, a distance of 61.3 miles.[1] The trackage rights are restricted to movements of BNSF's unit ballast trains (loaded and empty) to and from the ballast pit located at Elsey.

The transaction is scheduled to be consummated on or after December 25, 2014, the effective date of the exemption (30 days after the exemption is filed).

As a condition to this exemption, any employee affected by the trackage rights will be protected by the conditions imposed in *Norfolk & Western Railway—Trackage Rights—Burlington Northern, Inc.,* 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Railway—Lease & Operate—California Western Railroad,* 360 I.C.C. 653 (1980).

This notice is filed under 49 CFR 1180.2(d)(7). If it contains false or misleading information, the exemption is void *ab initio.* Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Stay petitions must be filed by December 18, 2014 (at least 7 days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to Docket No. FD 35879, must be filed with the Surface Transportation Board, 395 E Street SW., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on Karl Morell, Ball Janik LLP, Suite 225, 655 Fifteenth St. NW., Washington, DC 20005; and Courtney Biery Estes, BNSF Railway Company, 2500 Lou Menk Drive, AOB–3, Fort Worth, TX 76131.

Board decisions and notices are available on our Web site at ''*WWW.STB.DOT.GOV.*''

Decided: December 8, 2014.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

Jeffrey Herzig,

Clearance Clerk.

[FR Doc. 2014–29176 Filed 12–10–14; 8:45 am]

BILLING CODE 4915–01–P

[1] The trackage rights being granted here are only temporary rights but, because they are ''local'' rather than ''overhead'' rights, they do not qualify for the Board's class exemption for temporary trackage rights at 49 CFR 1180.2(d)(8). *See R.R. Consolidation Procedures—Exemption for Temporary Trackage Rights,* STB EP 282 (Sub-No. 20) (STB served May 23, 2003). Therefore, BNSF has concurrently filed a petition for partial revocation of this exemption in *BNSF Railway Company—Temporary Trackage Rights Exemption–Union Pacific Railroad Company,* Docket No. FD 35879 (Sub-No. 1), wherein BNSF requests that the Board permit the proposed local trackage rights arrangement described in the present proceeding to expire at midnight on or about October 31, 2015, as provided in the parties' agreement. That petition will be addressed by the Board in a separate decision.

DEPARTMENT OF THE TREASURY

Privacy Act; Systems of Records Terminations

AGENCY: Department Offices, Treasury.

ACTION: Notification of Termination of a System of Records.

SUMMARY: The Departmental Offices, Treasury is terminating a system of records, Treasury\Departmental Offices—DO.318 Consumer Financial Protection Bureau (CFPB) Implementation Team Correspondence Tracking Database (June 15, 2011 at 76 FR 35071), that is no longer identified as an independent system of record because Treasury no longer holds the records and it is covered under CFPB .011 Correspondence Tracking Database (December 17, 2013 at 78 FR 76286), (*https://www.federalregister.gov/articles/2013/12/17/2013-29969/privacy-act-of-1974-as-amended*).

DATES: October 22, 2014.

FOR FURTHER INFORMATION CONTACT: Helen Goff Foster, (202) 622–5710, or email to *Helen.Foster@treasury.gov*.

SUPPLEMENTARY INFORMATION: None.

Accordingly, this notice formally terminates this system of records.

U.S. Department of the Treasury

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Dated: December 8, 2014.

Helen Goff Foster,

Deputy Assistant Secretary for Privacy, Transparency, and Records.

[FR Doc. 2014–29120 Filed 12–10–14; 8:45 am]

BILLING CODE 4810–25–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Regulation Project

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 information collection requirements related to qualified lessee construction allowances for short-term.

DATES: Written comments should be received on or before February 9, 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 regulation should be addressed 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: Qualified Lessee Construction Allowances for Short-Term Leases.

OMB Number: 1545–1661.

Regulation Project Number: REG–106010–98, (TD 8901).

Abstract: The regulations provide guidance with respect to § 110, which provides a safe harbor whereby it will be assumed that a construction allowance provided by a lessor to a lessee is used to construct or improve lessor property when long-term property is constructed or improved and used pursuant to a short-term lease. The regulations ensure that both the lessee and the lessor consistently treat the property subject to construction allowance as nonresidential real property owned by the lessor.

Current Actions: There is no change to these existing regulations.

Type of review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 10,000.

Estimated Average Time per Respondent: 1 hour.

Estimated Total Annual Reporting Burden Hours: 10,000.

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: December 1, 2014.

Christie Preston,

IRS Reports Clearance Officer.

[FR Doc. 2014–29089 Filed 12–10–14; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8717–A

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 8717–A, User Fee for Employee Plan Opinion or Advisory Letter Request.

DATES: Written comments should be received on or before February 9, 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, 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: Form 8717–A, User Fee for Employee Plan Opinion or Advisory Letter.

OMB Number: 1545–XXXX.

Form Number: 8717–A.

Abstract: The Omnibus Reconciliation Act of 1990 requires payment of a ''user fee'' with each application for a determination letter. Form 8717–A was created to provide filers the means to make payment and indicate the type of request.

Current Actions: Request for new OMB approval.

Type of Review: Approval for new information collection.

Affected Public: Business or other for-profit organization, and not-for-profit institutions.

Estimated Number of Responses: 1,000.

Estimated Time per Response: 3 Hours, 34 minutes.

Estimated Total Annual Burden Hours: 3,570.

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: December 4, 2014.

Christie Preston,

IRS Reports Clearance Officer.

[FR Doc. 2014–29088 Filed 12–10–14; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Privacy Act of 1974, as amended

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of Proposed Alteration to Privacy Act Systems of Records.

SUMMARY: In accordance with the requirements of the Privacy Act of 1974, as amended, 5 U.S.C. 552a, the Department of the Treasury, Internal Revenue Service, gives notice of proposed alterations to systems of records entitled: 24.030 Individual Master File; 24.046, Business Master File; and 22.062 Electronic Filing Records.

DATES: Comments must be received no later than January 12, 2015. These altered systems of records will be effective January 20, 2015, unless the IRS receives comments that would result in a contrary determination.

ADDRESSES: Comments should be sent to the Office of Privacy, Governmental Liaison and Disclosure, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224. Comments will be available for inspection and copying in the IRS Freedom of Information Reading Room (Room 1621) at the above address. The telephone number for the Reading Room is (202) 317–4997 (not a toll-free number).

FOR FURTHER INFORMATION CONTACT: David Silverman, Management and Program Analyst, IRS Office of Privacy, Governmental Liaison and Disclosure, (202) 317–6452 (not a toll-free number).

SUPPLEMENTARY INFORMATION: The IRS is planning to identify and reduce refund fraud by implementing use of a unique identification number (Device ID). Device ID will be transmitted as part of each electronically filed return. IRS plans to implement the Device ID program for electronic return filers and preparers in January 2015. The Device ID will contain unique data that will be accessed and transmitted by the software used to electronically file the return. It will request unique information (*e.g.,* serial number) of the device (*e.g.,* computer, smart phone, tablet) used to submit an electronically filed return. This unique ID will be masked and transmitted as part of the electronically filed return via IRS's existing transmission processes. A notice describing these systems of records were most recently published at 77 FR 27948 and 47947, August 10, 2012.

Notice of the use of these procedures will be provided to taxpayers in e-file transmitter guidelines (Publication 1345, Handbook for Authorized IRS e-file Providers of Individual Income Tax Returns).

As required by 5 U.S.C. 552a(r), a report of altered systems of records has been provided to the Committee on Oversight and Government Reform of the House of Representatives, the Committee on Homeland Security and Governmental Affairs of the Senate, and the Office of Management and Budget.

The three proposed revised systems of records, described above, are published in part below.

Dated: November 25, 2014.

Helen Goff Foster,

Deputy Assistant Secretary for Privacy, Transparency, and Records.

Treasury/IRS 24.030

SYSTEM NAME:

Individual Master File

* * * * *

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Tax records for each applicable tax period or year, representative authorization information (including Centralized Authorization Files), and a code identifying taxpayers who threatened or assaulted IRS employees. An indicator will be added to any taxpayer's account if a state reports to IRS that the taxpayer owes past due child and/or spousal support payments.

When altered as proposed, Categories of Individuals Covered by the System will read as follows: Tax records for each applicable tax period or year, representative authorization information (including Centralized Authorization Files), Device ID, and a code identifying taxpayers who threatened or assaulted IRS employees. An indicator will be added to any taxpayer's account if a state reports to IRS that the taxpayer owes past due child and/or spousal support payments.

* * * * *

RETRIEVABILITY:

Currently reads Retrievability: By taxpayer name and Taxpayer Identification Number (TIN) (*e.g.,* social security number (SSN), employer identification number (EIN), or other similar number assigned by the IRS), or document locator number (DLN).

When altered as proposed, Retrievability will read as follows: By taxpayer name and Taxpayer Identification Number (*e.g.,* social security number, employer identification number, or other similar number assigned by the IRS), or document locator number, or Device ID.

* * * * *

Treasury/IRS 24.046

SYSTEM NAME:

Business Master File

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Currently reads Categories of records in the system: Tax records for each applicable tax year or period, including employment tax returns, partnership returns, excise tax returns, retirement and employee plan returns, wagering returns, estate tax returns; information returns; and representative authorization information.

When altered as proposed, Categories of records in the system will read as follows: Tax records for each applicable tax year or period, including employment tax returns, partnership returns, excise tax returns, retirement and employee plan returns, wagering returns, estate tax returns, information returns, representative authorization information, and Device ID.

* * * * *

RETRIEVABILITY:

Currently reads Retrievability: By electronic filing provider name or Taxpayer Identification Number (TIN) (*e.g.,* social security number (SSN), employer identification number (EIN), or similar number assigned by the IRS), or document control number (DCN).

When altered as proposed, Retrievability will read as follows: By electronic filing provider name or Taxpayer Identification Number (*e.g.,* social security number, employer identification number, or similar number assigned by the IRS), document control number, or Device ID.

* * * * *

Treasury/IRS 22.062

SYSTEM NAME:

Electronic Filing Records

* * * * *

CATEGORIES OF RECORDS IN THE SYSTEM:

Currently reads Categories of records in the system: Records pertaining to individual electronic filing providers, including applications to participate in electronic filing, credit reports, reports of misconduct, law enforcement records, and other information from investigations into suitability for participation. Records pertaining to the marketing of electronic filing, including surveys and opinions about improving electronic filing programs.

When altered as proposed, Categories of records in the system will read as

follows: Records pertaining to individual electronic filing providers, including applications to participate in electronic filing, credit reports, reports of misconduct, law enforcement records, Device ID, and other information from investigations into suitability for participation. Records pertaining to the marketing of electronic filing, including surveys and opinions about improving electronic filing programs.

* * * * *

RETRIEVABILITY:

Currently reads Retrievability: By taxpayer name, type of tax, Taxpayer Identification Number (TIN) (*e.g.,* social security number (SSN), employer identification number (EIN), or other similar number assigned by the IRS), or document locator number (DLN).

When altered as proposed, Retrievability will read as follows: By taxpayer name, type of tax, Taxpayer Identification Number (*e.g.,* social security number, employer identification number, or other similar number assigned by the IRS), document locator number, or Device ID.

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[FR Doc. 2014–29134 Filed 12–10–14; 8:45 am]

BILLING CODE 4830–01–P

FEDERAL REGISTER

Vol. 79 Thursday,

No. 238 December 11, 2014

Part II

Department of the Interior

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Threatened Species Status for the Rufa Red Knot; Final Rule

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS–R5–ES–2013–0097; 4500030113]

RIN 1018–AY17

Endangered and Threatened Wildlife and Plants; Threatened Species Status for the Rufa Red Knot

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), determine threatened species status under the Endangered Species Act of 1973 (Act), as amended, for the rufa red knot (*Calidris canutus rufa*). The rufa red knot is a migratory shorebird that breeds in the Canadian Arctic, winters in parts of the United States, the Caribbean, and South America, and primarily uses well-known spring and fall stopover areas on the Atlantic coast of the United States, although some follow a midcontinental migratory route. The effect of this regulation will be to add this species to the list of Endangered and Threatened Wildlife.

DATES: This rule becomes effective January 12, 2015.

ADDRESSES: This final rule is available on the internet at *http://www.regulations.gov* at Docket Number FWS–R5–ES–2013–0097 and at *http://www.fws.gov/northeast/redknot/.* Comments and materials we received, as well as supporting documentation we used in preparing this rule, are available for public inspection at *http://www.regulations.gov.* All of the comments, materials, and documentation that we considered in this rulemaking are available by appointment, during normal business hours at: U.S. Fish and Wildlife Service, New Jersey Field Office (see **FOR FURTHER INFORMATION CONTACT**).

FOR FURTHER INFORMATION CONTACT: Eric Schrading, Field Supervisor, U.S. Fish and Wildlife Service, New Jersey Field Office, 927 North Main Street, Building D, Pleasantville, New Jersey 08232, by telephone 609–383–3938 or by facsimile 609–646–0352. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 800–877–8339.

SUPPLEMENTARY INFORMATION:

Executive Summary

Why we need to publish a rule. Under the Endangered Species Act, a species may warrant protection through listing if it is endangered or threatened throughout all or a significant portion of its range. Listing a species as an endangered or threatened species can only be completed by issuing a rule.

This rule will finalize the listing of the rufa red knot (*Calidris canutus rufa*) as a threatened species.

The basis for our action. Under the Endangered Species Act, we may determine that a species is an endangered or threatened species based on any of five factors: (A) The present or threatened destruction, modification, or curtailment of its habitat or range; (B) Overutilization for commercial, recreational, scientific, or educational purposes; (C) Disease or predation; (D) The inadequacy of existing regulatory mechanisms; or (E) Other natural or manmade factors affecting its continued existence. We have determined that the rufa red knot is a threatened species due to loss of both breeding and nonbreeding habitat; likely effects related to disruption of natural predator cycles on the breeding grounds; reduced prey availability throughout the nonbreeding range; and increasing frequency and severity of asynchronies (mismatches) in the timing of the birds' annual migratory cycle relative to favorable food and weather conditions.

Peer review and public comment. We sought comments from three independent specialists with expertise on red knot biology and sea level rise to ensure that our designation is based on scientifically sound data, assumptions, and analyses. We invited these peer reviewers to comment on our listing proposal. Only one of the three peer reviewers provided comments on the proposal. This peer reviewer was generally supportive of the proposal, and provided substantive comments and documentation regarding biological differences between red knots in northern versus southern wintering areas. Many of these differences were already in the proposal but in separate locations; we consolidated and emphasized these differences, updating as appropriate with new information.

Previous Federal Action

Please refer to the proposed listing rule for the rufa red knot (78 FR 60024; September 30, 2013) and its Previous Actions supplement available online at *www.regulations.gov* under Docket Number FWS–R5–ES–2013–0097 for a detailed description of previous Federal actions concerning this species.

Background

Species Information

The rufa red knot (*Calidris canutus rufa*) is a medium-sized shorebird about 9 to 11 inches (in) (23 to 28 centimeters (cm)) in length. (Throughout this document, ''rufa red knot,'' ''red knot,'' and ''knot'' are used interchangeably to refer to the *rufa* subspecies. ''*Calidris canutus''* and ''*C. canutus''* are used to refer to the species as a whole or to birds of unknown subspecies. References to other particular subspecies are so indicated.) The red knot migrates annually between its breeding grounds in the Canadian Arctic and several wintering regions, including the Southeast United States (Southeast), the Northeast Gulf of Mexico, northern Brazil, and Tierra del Fuego at the southern tip of South America. During both the northbound (spring) and southbound (fall) migrations, red knots use key staging and stopover areas to rest and feed.

The November 2014 Rufa Red Knot Background Information and Threats Assessment (Supplemental Document; Service 2014, entire), available online at *www.regulations.gov* under Docket Number FWS–R5–ES–2013–0097, provides a thorough assessment of the rufa red knot biology and ecology, historical distribution and abundance, population surveys and estimates, and threats to its survival. The Supplemental Document has been updated since the September 30, 2013 publication of the proposed rule with data received during the peer review and public comment processes and relevant scientific data that have become available. In the Supplemental Document, we compile biological data and a description of past, present, and likely future threats facing the red knot. Because data in these areas of science can be limited, some uncertainties are associated with the data and conclusions drawn from the data. We have attempted to clearly identify these uncertainties and assumptions, which are based on the best available scientific and commercial data, explicit in the Supplemental Document. The Supplemental Document provides the scientific basis for our decision (see Summary of Biological Status and Threats in this final rule), the legal basis for which is the Act and its regulations and policies (see Determination in this final rule).

Summary of Biological Status and Threats

In this section, we summarize the population and threats information previously provided in the proposed

rule (78 FR 60024; September 30, 2013) and updated as appropriate from new information received since the proposed rule's publication. See the Summary of Changes from the Proposed Rule section below for what has been updated.

We note that the proposed rule referenced four separate documents of supporting material—Previous Federal Actions, Rufa Red Knot Ecology and Abundance, Climate Change Background, and Factor D: The Inadequacy of Existing Regulatory Mechanisms. For this final rule, we have combined those documents into one Supplemental Document. From here forward, when we are referencing information in the proposed rule, we will use the proposed rule's **Federal Register** citation and page number (*e.g.,* 78 FR 60024, p. 60032); when we are referencing information in one of the proposed rule's supporting documents, we will use the document's name and page number (*e.g.,* Rufa Red Knot Ecology and Abundance, p. 5); and when we are referencing information now contained in the final rule's Supplemental Document, we will use the Supplemental Document's title and section (*e.g.,* Supplemental Document, Factor E—Reduced Food Availability—Horseshoe Crab Harvest).

Population Information: After a thorough review of the best available population data, we conclude that we do not have sufficient reliable data on which to derive a precise rangewide population estimate for the rufa red knot. For example, there are no rangewide population estimates for fall migration or breeding areas because birds are too dispersed. We have limited confidence in any population trends inferred from wintering areas in Brazil's north coast, the northern Gulf coast, and the Southeast United States because available data from these areas vary in geographic coverage, methods, and level of effort. However, there are several areas where surveys have been conducted using more consistent observers, methods, and geographic coverage: Tierra del Fuego and the Argentine coast (winter), Delaware Bay (spring), the east coast of South America (spring), and Virginia (spring).

For Tierra del Fuego, baseline population data are available from the 1980s, and annual counts are available from 2000 to 2013, all collected with the same methodology and surveyors. The most recent counts (2011 to 2013) are about 75 percent lower than the 1980s baseline. The annual counts (2000 to 2013) show that the decline began after 2000, but the population has apparently stabilized at a low level since 2011.

For Delaware Bay, baseline data are available from the early 1980s, and annual peak counts are available for 1986 to 2014. The core years of 1986 to 2008 were collected with consistent methodology and surveyors. Based on these data, there may have been declines in the Delaware Bay stopover population in the 1990s, but variability in the data makes it difficult to detect trends. In contrast, the decline in Delaware Bay red knot counts in the 2000s was sufficiently pronounced and sustained that we have confidence in the downward trend over this time period despite the variability in the data. The average of peak counts in Delaware Bay over the past decade (2005 to 2014) was about 70 percent lower than the 1980s baseline. However, Delaware Bay numbers appear to have stabilized or increased slightly from 2009 to 2014, despite our lower confidence in the data over this later period due to shifts in methodology and surveyors.

Data sets from three South American Atlantic coast spring stopovers also suggest declines roughly over this same timeframe (early 2000s relative to 1990s). We previously concluded that the Virginia spring stopover had been stable since the mid-1990s, but new information now indicates a decline in Virginia relative to the 1990s.

In summary, our analysis of the best available data concludes that an overall, sustained decline of red knot numbers occurred at Tierra del Fuego and Delaware Bay in the 2000s, and that these red knot populations may have stabilized at a relatively low level in the last few years. Although we lack sufficiently robust data to conclude if other wintering and stopover areas also declined, we conclude it is likely that declines at Tierra del Fuego and Delaware Bay drove an overall population decline (*i.e.,* lower total numbers), because these two sites supported a large majority of rangewide knots during the baseline 1980s period. This conclusion is consistent with efforts (by others) to evaluate long-term population trends using national or regional data from volunteer shorebird surveys and other sources, which have also generally concluded that red knot numbers have declined. Please refer to this final rule's Supplemental Document—Population Surveys and Estimates for a more detailed discussion of the population information available for the rufa red knot throughout its range, available online at *www.regulations.gov* under Docket FWS–R5–ES–2013–0097.

Threats: Substantial threats exist throughout the red knot's breeding, migration, and wintering range and these threats are likely to continue or intensify into the future. For a full discussion of the five factors (*i.e.,* Factors A, B, C, D, and E) assessed as a basis for making the listing determination, please see the Supplemental Document—Summary of Factors Affecting the Species available online at *www.regulations.gov* under Docket Number FWS–R5–ES–2013–0097. A summary is provided below:

(1) Past habitat losses in wintering and migration areas have reduced the resilience of the red knot (Factor A). Ongoing losses in these areas from sea level rise, shoreline hardening, and development are expected to continue into the coming decades (Factor A). Beach nourishment can be beneficial or detrimental to red knot habitat, though any negative effects are mostly considered to be short-term. More recently, vegetation and ecosystem changes resulting from climate change, and potentially from development, have begun to threaten habitat loss on the breeding grounds as well (Factor A).

(2) Threats to the current and future quality and quantity of prey resources occur throughout the red knot's range from climate change and other causes (*e.g.,* ocean acidification; warming coastal waters; marine diseases, parasites, and invasive species; sediment placement; recreation; and fisheries) (Factor E). Reduced food availability in Delaware Bay due to commercial harvest of the horseshoe crab (*Limulus polyphemus*) (HSC) is considered a primary causal factor in red knot population declines in the 2000s. (Red knots rely on horseshoe crab eggs as food during their spring stopover in Delaware Bay.) We do not consider the HSC harvest a threat under the science-based management framework that has been developed and adopted to explicitly link harvest quotas to red knot population growth (Factor D). However, HSC monitoring necessary for the implementation of the management framework was not conducted in 2013 or 2014 due to lack of funding; thus, the framework is not currently being implemented as it was intended to function. There is uncertainty regarding implementation of the framework in the future (Factor D). While we anticipate a fully functioning management framework would continue to adequately abate the threat to red knots from the HSC harvest, there are other biological factors independent of harvest that may limit the availability of HSC eggs into the future. For example, HSC population growth may be limited by a biological lag time because HSCs take up to 10-years to become sexually

mature and therefore it may take at least that long for harvest restrictions (which have been phased in since 2000) to produce a corresponding increase in HSC populations. Other factors (*e.g.,* early life stage mortality, undocumented or underreported mortality) may also be slowing HSC population growth (Factor E). Most data suggest that the volume of horseshoe crab eggs is currently sufficient to support the Delaware Bay's stopover population of red knots at its present size. However, because of the uncertain trajectory of horseshoe crab population growth, it is not yet known if the HSC egg resource will continue to adequately support red knot population growth over the next decade.

(3) The red knot faces ongoing and future increases in asynchronies (timing mismatches) throughout its migration and breeding range as a result of climate change and unknown causes (Factor E). Successful annual migration and breeding of red knots is highly dependent on the timing of departures and arrivals to coincide with favorable food and weather conditions in the spring and fall migratory stopover areas and on the Arctic breeding grounds (Factor E).

(4) On the arctic breeding grounds, normal 3- to 4-year cycles of high predation, mediated by rodent (*e.g.,* lemming) cycles, result in years with low reproductive output of red knots (in some years it is zero), but do not threaten the survival of the red knot at the subspecies level (Factor C). That is, when lemmings are abundant, predators (*e.g.,* arctic fox) concentrate on the lemmings, and shorebirds breed successfully, but when lemmings are in short supply, predators switch to shorebird eggs and chicks (Niles *et al.* 2008, p. 101; COSEWIC 2007, p. 19; Meltofte *et al.* 2007, p. 21; USFWS 2003, p. 23; Blomqvist *et al.* 2002, p. 152; Summers and Underhill 1987, p. 169). It is believed shorebirds, such as red knots, have adapted to these cycles, therefore these natural cycles are not considered a threat to the red knot. What is a threat, however, is that these natural rodent/predator cycles are being disrupted by climate change, which may increase predation rates on shorebirds over the long term and have subspecies-level effects (Factor C and Factor E) (Chapter 28 *in* IPCC 2014, p. 14; Fraser *et al.* 2013, pp. 13, 16; Brommer *et al.* 2010, p. 577; Ims *et al.* 2008, p. 79; Kausrud *et al.* 2008, p. 98). The documented collapse or dampening of rodent (*e.g.,* lemmings) population cycles of over the last 20 to 30 years in parts of the Arctic can be attributed to climate change with ''high confidence'' (Chapter 28 *in* IPCC 2014, p. 14). We conclude that disruptions in the rodent/predator cycle pose a substantial threat to the red knot, as they may result in prolonged periods of low reproductive output of red knots due to increased predation (Factor C). The substantial impacts of elevated egg and chick predation on shorebird reproduction are well known. Disruptions in the rodent/predator cycle may have already affected red knot populations and are likely to increase due to climate change (Factor C).

Other factors may cause additive red knot mortality. Individually these factors are not expected to have subspecies level effects; however, cumulatively, these factors could exacerbate the effects of the primary threats if they further reduce the species' resiliency. These secondary factors include hunting (Factor B); predation in nonbreeding areas (Factor C); and human disturbance, oil spills, and wind energy development especially near the coasts (Factor E).

In summary, the rufa red knot faces numerous threats across its range on multiple geographic and temporal scales. These threats are affecting the subspecies now and will continue to have subspecies-level effects into the future.

Summary of Changes From the Proposed Rule

The following minor but substantive changes have been made to the listing rule and the Supplemental Document (available online at *www.regulations.gov* under Docket FWS–R5–ES–2013–0097) based on new information that has become available since the publication of the proposed rule, including information received through peer review and public comments. These changes did not alter our previous assessment of the rufa red knot from the proposed rule to the final rule.

(1) We present new data and insights regarding the nonbreeding distributions of rufa red knots versus *Calidris canutus roselaari.*

(2) We have emphasized and consolidated information about the differences between rufa red knots from northern versus southern wintering areas.

(3) We have added new geolocator data and new analyses of available resightings data showing (a) movement of rufa red knots between the North American Central and Atlantic Flyways; (b) clusters of sightings along the Great Lakes, the Mississippi River and its tributaries, and other major water bodies away from the coasts; (c) apparent use of saline (or alkaline) lakes in the Northern Plains by northbound red knots using the Central Flyway; and (d) use of U.S. Atlantic coast habitats used by juveniles in summer and winter.

(4) We updated population information with winter counts in South America and the southeast United States. The 2013 red knot winter counts in Tierra del Fuego were down to the second lowest level on record, while the counts in northern Brazil were nearly double the previous high count recorded in 1986. The large number of knots found in Brazil in 2013 was likely the result of the survey team experiencing favorable tidal conditions throughout the survey period, and this is probably the team's best aerial survey estimate to date. In addition, a new report from the Georgia Department of Natural Resources (GDNR) based on mark-recapture mathematical models estimated that the northern wintering population may be around 20,000 birds; this number is consistent with some previous estimates but notably higher than the best available field survey from the Southeast of about 4,000 to 5,000 birds. However, we do not yet have information to determine whether the geographic extent of the ''northern'' population in the GDNR study includes areas outside the Southeast.

(5) We updated our analysis of climate change information based on new reports from the International Panel on Climate Change (IPCC) and National Climate Assessment. Updates include:

(a) The IPCC's increased certainty in the overall trajectory of global and regional climate changes over the next few decades.

(b) Recent assessments of the red knot's vulnerability to climate change indicating a large increase in extinction risk due to the likely loss of breeding (from arctic warming) and nonbreeding habitat (from sea level rise), as well as the red knot's high degree of habitat specialization and dependence on ecological synchronicities, and long migration distance.

(c) New reports finding, with high certainty, that arctic ecosystem changes are already under way and will continue, in some cases faster than previously anticipated. (The IPCC notes early warning signs that arctic ecosystems are already experiencing irreversible regime shifts.)

(d) A new conclusion by the IPCC that the documented collapse or dampening of rodent population cycles in some parts of the Arctic over the last 20 to 30 years can be attributed to climate change with ''high confidence.''

(e) An updated analysis of threats to red knot prey species from ocean acidification, temperature changes, and other aspects of climate change. (A new

report highlights the vulnerability of mollusks (which include the red knot's primary prey species in most of its range) to acidification (''high confidence'').)

(6) We updated the best available data regarding current and likely future rates of sea level rise. We also noted a new study showing that expected effects to migratory shorebird populations from sea level rise are disproportionally larger than the extent of projected habitat loss, especially for species (such as red knots) whose migration routes contain ''bottlenecks'' through which a large fraction of the population passes.

(7) We discussed new voluntary, regulatory, or proposed restrictions on red knot hunting (*e.g.,* in Barbados, Guadeloupe, Martinique, and French Guiana), but acknowledged that best available data are insufficient to determine if hunting is or was at levels in South America that may have a population-level effect.

(8) We updated Federal and State authorities to regulate the importation of Asian HSC species, which may pose a threat to native HSC populations.

(9) We noted the results of the Atlantic States Marine Fisheries Commission's (ASMFC) 2013 HSC stock assessment update showing that, in the Delaware Bay Region, there is evidence of increases in certain age or sex classes, but overall population trends have been largely stable (neither increasing nor decreasing) since the previous stock assessment in 2009.

(10) We updated our analysis of possible undocumented or underestimated HSC mortality with new information on poaching, bycatch, and sublethal effects of biomedical bleeding.

(11) We updated the discussion as follows about the Adaptive Resource Management (ARM) monitoring efforts to reflect uncertainty (due to lack of funding) in ongoing implementation:

(a) We continue to conclude that, as long as the ARM is in place and functioning as intended, ongoing HSC bait harvests should not be a threat to the red knot.

(b) Data necessary to support the ARM previously came from an annual HSC trawl survey conducted by the Virginia Polytechnic Institute (Virginia Tech) that was ended after 2012 due to lack of funding. The ARM modelers are working on the best way to switch to another, newer survey, the North East Area Monitoring and Assessment Program (NEAMAP), and we support those efforts.

(c) As of fall 2014, however, these efforts have not identified a method by which NEAMAP or other alternate data sets can be appropriately used to allow the functioning of the ARM models (ASMFC 2014b). Stable funding sources for other baywide monitoring programs necessary to support the ARM are also a concern.

(d) If the ARM cannot be implemented in any given year, ASMFC would choose between two options based on which it determines to be more appropriate—either use the previous year's harvest levels (as previously set by the ARM), or revert to an earlier management regime. Although the HSC fishery would continue to be managed under either of these options, the explicit link to red knot populations would be lost.

(e) Insufficient monitoring has already impacted the ability of the ASMFC to implement the ARM as intended (ASMFC 2014b; ASMFC 2012c, p. 13). Absent the necessary HSC monitoring data to use the ARM models for the 2015 season, ASMFC (2014b) has opted to use the 2014 harvest levels which we considered at the time to adequately ensure the red knot's food supply.

(12) We updated our analysis of disturbance with new findings from two sites on the Atlantic coast of New Jersey, showing that disturbance affected red knots' spatial uses of these sites and displaced knots from otherwise suitable habitats.

(13) We reorganized the wind energy development discussion by moving general information on avian collision and displacement hazards to a background section, not specific to either offshore or terrestrial development. We updated this section with new information including a new report on avian vulnerability to offshore wind development. We updated our conclusions that collision and displacement risks per turbine (notwithstanding differences in specific factors such as turbine size, design, operation, and siting) are likely higher along the coasts than far inland or far offshore.

(14) We updated the 50 CFR 17.11 table to add Martinique and the District of Columbia. We received new information that red knots occur on Martinique. The District of Columbia was already included in the known range of the red knot, but was inadvertently left off the table in the proposed rule.

Summary of Comments and Recommendations

In the proposed rule published on September 30, 2013 (78 FR 60024), we requested that all interested parties submit written comments on the proposal by November 29, 2013. We also contacted appropriate Federal and State agencies, scientific experts and organizations, and other interested parties and invited them to comment on the proposal. A newspaper notice inviting general public comment was published in the USA Today on October 3, 2013. We received four requests for a public hearing. On April 4, 2014 (79 FR 18869), we reopened the comment period on the proposed rule until May 19, 2014, and announced that two public hearings would take place on May 6, 2014, in Corpus Christi, Texas, and Morehead City, North Carolina. On May 14, 2014 (79 FR 27548), we extended the public comment period until June 15, 2014, and announced that another public hearing would take place in Manteo, North Carolina on June 5, 2014. All substantive information provided during the comment periods is summarized above in the Summary of Changes from the Proposed Rule and has either been incorporated directly into this final determination or addressed in the more specific response to comments below.

A number of commenters, including a peer reviewer, Federal agencies, and States, provided new information or clarifications on information presented in the red knot proposed listing rule (78 FR 60024) and its supporting documents. Categories of new or clarified information include additional years of population estimates or sighting information throughout the rufa red knot's range, status of the rufa red knot and ecology in Argentina and French Guiana, beach cleaning, sea level rise and its projected effects on migratory shorebirds, disturbance, the Deepwater Horizon and Galveston oil spills, status of offshore wind energy development leases along the Atlantic coast, historical and current food resources and foraging habitat, migration and staging areas, updated stopover population size estimates in Delaware Bay, State restrictions on importing Asian HSC, ongoing management of HSC, habitat protection in Maine, and geolocator scope of inference. This new or clarified information has been incorporated, as appropriate, into this final rule or its Supplemental Document.

General Issues

(1) Comment: Several public, State, and Federal commenters submitted comments on topics related to other issues not specific to the red knot listing proposal. These issues include (a) general criticism of the Act (funding species' conservation and Service employees being a target of litigation, imposing fines that are too punitive, having negative effects on local

communities, producing decisions on which species survive and where public hearings are held, and using science that would not withstand National Academy of Science Review); (b) the information and analysis required to designate critical habitat; and (c) red knot or HSC population targets, other species, research, actions, or resources that should be considered, as well as where funding should be directed and whom the Service should work with as part of ongoing or future conservation activities and recovery planning for the rufa red knot.

Our Response: All of these comments are outside the scope of this final listing rule and will not be addressed here. Substantive comments related to critical habitat issues will be addressed during development of a proposed critical habitat rule for the red knot. Substantive comments related to future conservation of the red knot will be addressed during the development of a recovery outline and draft recovery plan.

(2) Comment: Several commenters, including one State, expressed concerns that the rufa red knot's listing could (a) result in restrictions on pedestrian and vehicular beach recreation, additional regulatory hurdles, decreased property values, and increased costs to otherwise lawful activities, all of which could cause negative effects to local communities, economies, and quality of life, and could erode the current goodwill of partners to work on red knot conservation; (b) result in reduced HSC harvest levels, causing economic impacts to fishermen reliant on the HSC bait fishery, potentially shifting harvest pressure to areas outside of Delaware Bay, and potentially creating incentives to import Asian HSC species for bait; (c) reduce availability of HSCs for biomedical uses; and (d) restrict beach access for HSC conservation programs (*e.g.,* rescue programs for volunteers to flip stranded crabs). Additionally, some commenters expressed frustration over existing beach access and management on National Park Service (NPS) lands because of other listed species and asked for expanded management options beyond beach closures. Conversely, other commenters asked for additional restrictions in places like Delaware Bay.

Our Response: While we appreciate the concern about potential management actions that may result from listing the rufa red knot or any species, the Act does not allow us to factor those concerns into our listing decision. Section 4(a)(1) of the Act specifies that we shall determine whether any species is threatened or endangered because of any of the following factors: (A) The present or threatened destruction, modification, or curtailment of its habitat or range; (B) overutilization for commercial, recreational, scientific, or educational purposes; (C) disease or predation; (D) the inadequacy of existing regulatory mechanisms; or (E) other natural or manmade factors affecting its continued existence. Section 4(b)(1)(A) further specifies that we shall make such determinations based solely on the best scientific and commercial data available. See *Our Response 60* regarding other implications of listing that we may not consider in evaluating whether a species meets the definition of threatened or endangered under the Act.

The Service does not make management decisions about any lands other than National Wildlife Refuges and National Hatcheries, but we remain committed to working with coastal communities to evaluate any effects of coastal management on the rufa red knot, and to implement actions in a manner consistent with the species' conservation using many of the Act's available tools. We will strive to build on existing management practices in local areas to limit disturbance to red knots and other shorebirds through coordination and partnership with the States, other Federal agencies, conservation groups, and local communities.

The Service does not have authority to directly regulate the HSC fishery, but we intend to continue our active role in the ASMFC's management of the HSC fishery, and will provide recommendations and technical assistance to ensure that future harvests of HSCs do not result in take of red knots under section 9 of the Act. See *Our Responses 45, 46, 48 through 50, 52, 111, 117, 120, and 121* below and the Supplemental Document (Factor E—Reduced Food Availability—Horseshoe Crab Harvest) for detailed answers related to other aspects of HSC management, including biomedical use and implications of importation of Asian HSC species.

(3) Comment: Several commenters asked how listing will benefit the red knot when its range spans several countries, yet the Act's jurisdiction is limited to the United States. Many of the threats discussed in the proposed rule either occur only in areas outside of the United States (*e.g.,* hunting) or are issues (*e.g.,* climate change) that cannot be affected by management under the Act. The Service cannot expect to achieve a fraction of the conservation success that has been achieved in Delaware Bay, given that the Act's prohibitions do not apply outside of the United States.

Our Response: The Act requires listing of a species that meets the definition of threatened or endangered even if we currently lack the means to fully abate the threats that cause it to be threatened or endangered. Notwithstanding, we disagree that listing will have no effect on threats such as adequacy of food supplies and hunting, and we expect these threats to be addressed during recovery planning. The development of a recovery plan will guide efforts intended to ensure the long-term survival and eventual recovery of the rufa red knot, as discussed in the proposed rule (78 FR 60024, p. 60097). While we acknowledge that listing will not have a direct impact on those aspects of climate change impacting the rufa red knot (*e.g.,* sea level rise, arctic and ocean warming, ocean acidification, timing changes in the annual cycles of natural systems, possible changes in storm patterns or predation pressures), we expect that listing will enhance national and international cooperation and coordination of conservation efforts, enhance research programs, and encourage the development of mitigation measures that could help slow habitat loss and population declines.

Benefits to the species outside the United States from listing include a prohibition on import. By regulating this activity, the Act ensures that people under the jurisdiction of the United States do not contribute to the further decline of listed species. Although the Act's prohibitions regarding listed species apply only to people subject to the jurisdiction of the United States, the Act can generate additional conservation benefits such as increase awareness of listed species, encourage research efforts to address conservation needs, or prioritize funding for *in-situ* conservation of the species in its range countries. The Act also provides for limited financial assistance to develop and manage programs to conserve listed species in foreign countries, encourages conservation programs for such species, and allows for assistance for programs, such as personnel and training.

While we agree that limiting HSC harvests and other actions in Delaware Bay have been instrumental in halting (though not yet reversing) the decline of the red knot, we do not agree that conservation of this species is impossible in other geographic areas. For example, the rufa red knot is listed as endangered in Canada and Argentina, was recently protected from hunting in the Caribbean, has been listed as a

protected species in French Guiana, and is a focus of active conservation programs in several countries including Canada, Argentina, and Chile. In the United States, there are ongoing conservation and research efforts in many areas outside Delaware Bay including Massachusetts, Virginia, North Carolina, South Carolina, Georgia, Florida, and Texas. Many important red knot areas within and outside the United States have been recognized as Western Hemisphere Shorebird Reserve Network sites.

(4) Comment: One commenter stated that the Act is currently under revision and it is advisable to postpone further listings until the changes are finalized.

Our Response: While we are aware of several proposed legislative changes to the Act, those changes may not come to fruition and we may not delay implementing the current Act while those proposed changes are being debated. In addition to the proposed legislative changes, we are actively working on a series of regulatory changes to improve the implementation of the Act (see our ''Improving ESA Implementation'' Web site for more information: *http://www.fws.gov/endangered/improving_ESA/index.html*).

Peer Reviewer Comments

In accordance with our peer review policy published on July 1, 1994 (59 FR 34270), we solicited expert opinion from three knowledgeable individuals with scientific expertise that included familiarity with the rufa red knot and its habitat, biological needs, and threats. We received responses from one of the peer reviewers.

We reviewed all comments received from the peer reviewer for substantive issues and new information regarding the listing of the rufa red knot. This peer reviewer was generally supportive of the overall proposal and, in addition to providing further site-specific information, generally confirmed our use of the best available scientific information. Peer reviewer comments are addressed in the following summary and incorporated into the final rule as appropriate.

(5) Comment: The peer reviewer stated there is nonscientifically reported evidence (newspaper articles, animal care center reports) that red tide poisoning has caused extensive death of knots on Florida's west coast.

Our Response: We appreciate the peer reviewer bringing this information to our attention. Unfortunately, we were unable to locate the sources of the suggested information and, therefore, cannot verify the content. However, we have obtained a report of one nonfatal case of red tide poisoning of a red knot in Florida (H. Barron pers. comm. April 29, 2014); the bird's blood was tested and confirmed to have a brevetoxin level of 2.64 nanograms/milliliter (ng/ml). Brevetoxin is a highly potent neurotoxin produced by red tide events. We have added this information to the Supplemental Document (Factor E—Harmful Algal Blooms—Gulf of Mexico). Though not documenting widespread effects or mortality from red tide, this report does confirm that red tide poisoning of red knots has occurred in Florida, which is otherwise unreported in the scientific literature.

(6) Comment: The peer reviewer noted that the proposed rule (78 FR 60024, p. 60045) states that uncontrolled invasive vegetation can cause a habitat shift from open or sparsely vegetated sand to dense vegetation, resulting in the loss or degradation of red knot roosting habitat. The link between dense invasive vegetation and red knot habitat degradation is conjecture and should be strengthened with reference to a scientific study.

Our Response: We agree. We have revised this paragraph in the Supplemental Document (Factor A—Invasive Vegetation) to add citations to support the statement that uncontrolled invasive vegetation can cause a habitat shift from open or sparsely vegetated sand to dense vegetation. We have removed the wording ''resulting in the loss or degradation of red knot roosting habitat,'' because we are not aware of any scientific studies or other data documenting that such degradation has occurred. We have instead added the statement that, in nonbreeding habitats, *Calidris canutus* require sparse vegetation to avoid predation (Niles *et al.* 2008, p. 44; Piersma *et al.* 1993, pp. 338–339, 349).

(7) Comment: The peer reviewer stated that the Southeast coast of the United States is important during northward migration. Many red knots marked in Argentina and Chile are seen on the Atlantic coasts of Florida, Georgia, South Carolina, and North Carolina during, but not before, May. In addition, several other commenters stated the proposed rule did not identify North Carolina as having major or important spring or fall stopover areas.

Our Response: The Southeast, including North Carolina, was identified in the proposed rule as providing spring and fall stopover sites (Rufa Red Knot Ecology and Abundance, pp. 18, 50–51). Data characterizing the stopover usage of the Southeast, including North Carolina, are presented unchanged in the Supplemental Document (*e.g.,* figure 4; Population Surveys and Estimates—Spring Stopover Areas—Southeast United States). However, we have revised the text of the Supplemental Document (Population Surveys and Estimates—Spring Migration) to clarify that our review focused on geographically large spring stopovers with multiple years of survey data, but that other important spring stopover areas are known (*e.g.,* from International Shorebird Survey data, eBird, localized surveys). We have also revised the wording of the Supplemental Document (Migration—Atlantic Coast) to refer to ''well-known'' instead of ''major'' or ''important'' spring and fall stopover areas, since many potentially significant stopover areas have been surveyed only sporadically or are yet undiscovered. Finally, we have added the information provided by the peer reviewer regarding passage of southern-wintering birds along the Southeast coast during May (Migration—Atlantic Coast—Spring Timing and Distribution).

(8) Comment: The peer reviewer stated the proposed rule presented comprehensive evidence about threats to red knots during winter and northbound migration seasons, mostly focused on the longest-distance migrating knots that winter in Argentina and Chile. However, the proposed rule presented less information regarding northbound or southbound passage of the knots that spend winter seasons in regions north of the Equator. One issue that needs elaboration is the relative numbers of knots that winter in each of these two large regions and the differences of habitat use and migration strategies that exist between them.

Our Response: The proposed rule presented available data regarding numbers of red knots in each wintering area (Rufa Red Knot Ecology and Abundance pp. 38–45), summarized by Atkinson *et al.* (in Wader Study Group 2005) and Harrington *et al.* (2010b) regarding differences in migration strategy by wintering area (Rufa Red Knot Ecology and Abundance pp. 22, 32), and presented information regarding possibly greater reliance on HSC eggs by migrants from Argentina and Chile relative to birds from more northern wintering areas (Rufa Red Knot Ecology and Abundance pp. 31–33). In the Supplemental Document, we have added a section (Wintering—Northern Versus Southern) to summarize the differences between red knots from northern versus southern wintering areas that are discussed elsewhere in the document, moved and supplemented information to a new section (Migration—Differences in Migration

Strategy by Wintering Region) on differences in migration strategies, and clarified information regarding differential reliance on HSC eggs (Wintering and Migration Food).

(9) Comment: The peer reviewer noted the proposed rule stated that red knots require stopovers rich in easily digested food to achieve adequate weight gain due to changes in the digestive system that birds undergo before long flights. This may be less true for the knots from northern wintering grounds.

Our Response: In the proposed rule, we noted this possible physiological difference between southern- and northern-wintering rufa red knots (Rufa Red Knot Ecology and Abundance, pp. 30–31), but we did not mention this possible difference in the section cited by this commenter (Rufa Red Knot Ecology and Abundance, p. 17). In the Supplemental Document (Species Information—Migration—Migration Biology), we have added a sentence to this paragraph to clarify that some researchers have suggested that digestive system changes are more pronounced, or have a more pronounced effect on energy budgets at the stopover areas, in southern-wintering (Argentina and Chile) than in northern-wintering (Southeast United States) rufa red knots (Niles *et al.* 2008, p. 36; Atkinson *et al.* 2006b, p. 41). We have also added a cross reference in this paragraph to refer readers to a more detailed discussion of this issue that is presented under Migration and Wintering Food—Horseshoe Crab Eggs—Possible Differential Reliance on Horseshoe Crab Eggs.

(10) Comment: The peer reviewer suggested the term ''full segregation'' is unclear with regard to migration strategies, routes, or stopover areas among red knots from different wintering areas. There is a good deal of segregation in stopover regimens and in molt regimens between southbound knots with destinations in Argentina and Chile versus northern-hemisphere wintering birds. There also appears to be some degree of difference in stopover habitat use between these two groups in northbound migration.

Our Response: We have clarified the lack of full segregation by providing examples in the Supplemental Document (Migration—Differences in Migration Strategy by Wintering Area). Also see *Our Responses 8* and *9* above.

(11) Comment: The peer reviewer stated northern- versus southern-wintering knots have different strategies in southward migration. The southern group has essentially passed through Atlantic regions of North America before September, and strongly depends upon being able to accumulate fat and protein prior to launching on over-ocean flights between North and South America. Northern-wintering birds, however, linger on the North American coast (*e.g.,* Massachusetts, Georgia coasts), are using ''stopover'' locations as molting areas, and are using different food and habitat resources as compared to the southern-wintering knots. The resource requirements by birds of these two groups during southward migration are quite different.

Our Response: We have added this information with supporting citations to the new section of the Supplemental Document (Migration—Differences in Migration Strategy by Wintering Region).

(12) Comment: The peer reviewer noted that, historically, oiling was perhaps an important problem to knots in Patagonia, and suggested limited information was available in the reference Harrington and Morrison 1980.

Our Response: Some of the data from Harrington and Morrison (1980) were presented in the proposed rule (78 FR 60024, p. 60086) from a secondary source (Niles *et al.* 2008, p. 98). We have added the rest of these data and this reference to the Supplemental Document (Factor E—Oil Spills and Leaks—South America).

(13) Comment: The peer reviewer stated that, although the Costa del Este area of Panama City, Panama (referenced in the proposed rule, 78 FR 60024, p. 60043), is a very important location for many kinds of shorebirds, few knots have been reported from here.

Our Response: We agree that only moderate numbers of *Calidris canutus* have been reported in most seasons from Panama's Pacific coast (which includes habitats near Panama City as well as other sites). However, larger numbers have been reported from Pacific Panama during fall migration. In the proposed rule (Rufa Red Knot Ecology and Abundance, pp. 41–42, 52), we presented available data regarding numbers of *C. canutus* in Panama. We have consolidated and updated these data with new information in the Supplemental Document (see Population Surveys and Estimates—Central America and Pacific South America).

(14) Comment: The peer reviewer stated that recently published data show dramatic declines and shifting of stopover locations during south migration in Massachusetts.

Our Response: This information (Harrington *et al.* 2010a; Harrington *et al.* 2010b) was presented in the proposed rule (Rufa Red Knot Ecology and Abundance, p. 51). We have expanded the discussion of these results in the Supplemental Document (Migration—Atlantic Coast—Fall Timing and Distribution; Population Surveys and Estimates—Fall Stopover Areas).

(15) Comment: The peer reviewer stated that the proposed rule was incorrect in describing only small numbers of red knots on mid-Atlantic and northern Atlantic beaches between Memorial Day and Labor Day. Currently about 1,000 to 2,000 knots occur on the Massachusetts coast during the fall migration period, and numbers were previously much higher. Peak dates for these southbound migrants are in July and August.

Our Response: This statement appeared in the section of the proposed rule addressing beach cleaning (78 FR 60045). We have revised the Supplemental Document (Population Surveys and Estimates—Fall Stopover Areas; Factor A—Beach Cleaning) to correct this information.

(16) Comment: The peer reviewer stated that there has been a major shift of key stopover areas of knots in south migration in Massachusetts since the 1980s when up to 10,000 southern-wintering knots were heavily concentrated on the western shore of Cape Cod Bay (Harrington *et al.* 2010a).

Our Response: We discussed the findings of Harrington *et al.* (2010a) in the proposed rule (Rufa Red Knot Ecology and Abundance, p. 51). We have revised several sections of the Supplemental Document to provide more specific results from this study (Migration—Differences in Migration Strategy by Wintering Region; Historical Distribution and Abundance; Population Surveys and Estimates—Fall Stopover Areas).

(17) Comment: The peer reviewer stated that the proposed rule (78 FR 60024, p. 60046) notes that more red knots were documented in northeast Brazil in the 2000s than during the early 1980s. The wording of this paragraph could be misconstrued to suggest that habitats were improved by the development from shrimp farm ponds.

Our Response: We agree and have clarified this point in the Supplemental Document (Factor A—Agriculture and Aquaculture).

(18) Comment: The peer reviewer commented that the proposed rule (78 FR 60024, p. 60045) stated that beach-cleaning machines are likely to cause disturbance to roosting and foraging red knots. This is more of an issue with respect to roosting than to foraging. In almost all cases, raked areas would be

beaches that knots might use during high tides for roosting (if not for high levels of human disturbance), but not as sites for foraging. Beach cleaning generally happens on beaches intensively used for human recreation. Because of heavy human use, knots that might otherwise roost in these areas would generally avoid such locations. Thus, the issue would be disturbance versus beach cleaning.

Our Response: The proposed rule (78 FR 60024, p. 60077) noted that roosting red knots are particularly vulnerable to disturbance. We have revised the Supplemental Document to cross-reference this information under Factor A—Beach Cleaning, and to note in this same section that beach-cleaning typically occurs along or landward of the high tide line where red knots may roost but are unlikely to forage. The proposed rule (78 FR 60024, p. 60044) states that mechanical beach cleaning is most commonly conducted on beaches that are heavily used for tourism. We agree that disturbance to red knots from recreational activities may, on many beaches, be greater than the disturbance from the beach cleaning machines. However, beach cleaning may occur at times of day (*e.g.,* early morning, evening) when few recreational activities are taking place, thus increasing the total daily duration that knots are disturbed by human activities. Conversely, many raked beaches may have such high levels of human recreational use that red knots are precluded from using them entirely; in such cases there would be no incremental additional disturbance from the raking activities. We have added these conclusions to the Supplemental Document (Factor A—Beach Cleaning). In addition, the proposed rule already described (78 FR 60024, p. 60044) physical impacts to beach habitats from mechanical beach cleaning.

Federal Agency Comments

(19) Comment: One Federal agency provided data regarding the seasonality and abundance of red knots in or near units managed by the NPS in the Central and Eastern United States. To assess gross trends in occurrence of red knots across NPS units, this commenter considered vetted eBird data points where birding effort was reported, and found that, in the NPS units where most red knot occurrences were reported (Assateague Island, Cape Lookout, Cape Hatteras, Cape Cod, Gateway National Recreation Area, and Timucuan Ecological and Historic Preserve), a clear declining trend in red knot observations was detected since 1980.

Our Response: We thank the commenter and have added this trend information to the Supplemental Document (Population Surveys and Estimates). The information regarding the seasonality and abundance of red knots at individual NPS units will be valuable for purposes of recovery planning, management under section 7(a)(1) of the Act, and consultation under section 7(a)(2) of the Act.

(20) Comment: One Federal agency noted that several Navy installations within the range of the red knot have Integrated Natural Resources Management Plans in place that benefit the red knot, including provisions for shoreline protection.

Our Response: We appreciate this information and anticipate working closely with these installations as we develop a critical habitat designation, and develop and implement a recovery plan for the red knot.

(21) Comment: One Federal agency commented that the proposed rule and supporting document overemphasized the risks to the red knot, and birds in general, associated with offshore wind energy development. In addition, several States and other commenters stated that wind energy development outside of coastal areas is unlikely to be a significant threat to red knots.

Our Response: In both the proposed rule (78 FR 60024, pp. 60089–60093) and the Supplemental Document (Factor E—Wind Energy Development), we have summarized and characterized the best available data regarding risks to the red knot from both offshore and terrestrial wind energy development. We have made considerable revisions to this section of the Supplemental Document to reflect substantive public comments and new information (see also *Our Responses 62, 134* to *137*). We conclude that wind energy development, especially near the coasts, may cause some unquantifiable amount of red knot mortality into the foreseeable future, and that one model indicated this species is vulnerable to population-level effects from even low levels of anthropogenic mortality (Watts 2010, pp. 1, 39). Unless facilities are constructed at key stopover or wintering habitats, we do not expect wind energy development, especially offshore or inland, to cause significant direct habitat loss or degradation, or displacement of red knots from otherwise suitable habitats.

(22) Comment: One Federal agency stated that, in addition to the total number and height of offshore turbines, exposure is a factor contributing to avian collision risks. For red knots, exposure to offshore wind facilities is reduced because (1) they can fly nonstop for 1,500 miles (mi) (2,414 kilometers (km)), which limits their time over the open ocean, and (2) birds on long-distance flights, such as red knots crossing the offshore environment, fly at higher altitudes than short-distant migrants.

Our Response: We agree that exposure to wind turbines is a contributing factor to avian collision risk. The proposed rule (78 FR 60024, pp. 60090–60091) presented the findings of Burger *et al.* (2011, entire), who used a weight-of-evidence approach to examine the risks and hazards to red knots from offshore wind energy development on the OCS at three spatial levels of exposure. We concur that the red knot can fly nonstop for 1,500 mi (2,414 km) and that some knots have limited temporal exposure to the offshore environment (Normandeau Associates, Inc. 2011, p. 202). Geolocator data show certain knots crossing the OCS as many as six times per year, and because these numbers reflect only long flights, more crossings of the OCS may occur as birds make shorter flights between States (Burger *et al.* 2012c, p. 374).

It is estimated that the normal cruising altitude of red knots during migration is between 3,281 to 9,843 feet (ft) (1,000 to 3,000 meters (m)) (Burger *et al.* 2011, p. 346), well above the estimated height of even a 10-megawatt (MW) offshore turbine (681 ft; 207.5 m). However, lower flight altitudes may be expected when red knots encounter bad weather or high winds, and these lower flight altitudes are known to occur on ascent or descent from long-distance flights, during short-distance flights if they are blown off course, during short coastal migration flights, or during daily commuting flights (*e.g.,* between foraging and roosting habitats) (Burger *et al.* 2012c, pp. 375–376; Burger *et al.* 2011, p. 346), as discussed in the proposed rule (78 FR 60024, p. 60090).

(23) Comment: One Federal agency stated that some studies and analyses used in the proposed rule (78 FR 60024) fail to distinguish between onshore/nearshore and offshore wind energy development. This distinction is important because the species at risk and the magnitude of the risk can be considerably different. The agency further stated that coastal environments generally have higher concentrations of birds than offshore areas and that birds taking off from land may fly through the rotor zone before reaching cruising elevation. In addition, this commenter questioned our conclusions about the risk of bird collisions with offshore wind facilities, which were based on a

scientific paper (Kuvlesky *et al.* 2007) summarizing research from Europe.

Our Response: In the proposed rule (78 FR 60024, p. 60089–60092), we addressed separately land-based wind energy development (including along the coasts) versus in the offshore environment. Based on the high frequency and lower altitudes of red knot flights along the coast (*e.g.,* ascent or descent from long-distance flights, during short coastal migration flights, or during daily commuting flights between foraging and roosting habitats) (D. Newstead pers. comm. March 5, 2013; Burger *et al.* 2012c, pp. 375–376; Burger *et al.* 2011, p. 346; Stewart *et al.* 2007, p. 1; Alerstam *et al.* 1990, p. 201), we agree with the commenter that collision risk per turbine (notwithstanding differences such as size, design, operation, local habitats) along the coasts (both on land and nearshore) is likely higher than in areas either far offshore or far inland. We have revised the Supplemental Document (Factor E—Wind Energy Development—Terrestrial) to reflect this conclusion. We have also revised the Supplemental Document (Factor E—Wind Energy Development) to move the discussion of avian collision risk factors (*e.g.,* weather, light levels, lighting, turbine characteristics, habitats) and displacement effects to be generalized across both terrestrial and offshore wind energy facilities, as the citations supporting this discussion pertain to both.

In the proposed rule (78 FR 60024, pp. 60089–60091), we did not attempt to differentiate between nearshore (*e.g.,* State waters) and the OCS. Although we still have little information on avian impacts from turbines far offshore, we have updated our conclusions in the Supplemental Document (Factor E—Wind Energy Development—Offshore) to reflect geolocator results by Burger *et al.* (2012c, p. 373) and analysis by Burger *et al.* (2011, p. 346) suggesting red knot collision risk may decrease far offshore. Finally, we have removed the following statement from the Supplemental Document (Factor E—Wind Energy Development—Offshore): ''Research from Europe, where several offshore wind facilities are in operation, suggests that bird collision rates with offshore turbines may be higher than for turbines on land.'' Upon further review of the source cited for this statement (Kuvlesky *et al.* 2007, p. 2489), we found that these authors presented results from both coastal and nearshore wind facilities. Further, these authors went on to present countervailing findings from other studies, and did not cite any studies from wind turbines located far offshore. Therefore, we reasoned that this statement from the Kuvlesky *et al.* 2007 paper was not appropriate to include in this final rule.

(24) Comment: One Federal agency commented that the Bureau of Ocean Energy Management (BOEM) has worked with State Task Forces to determine the best locations for wind energy development to help avoid impacts. For example, areas being considered are greater than 9 mi (14 km) offshore; the Virginia lease area is 23.5 nautical miles (nm) (43.5 km) from Virginia Beach.

Our Response: We concur that siting far offshore may succeed in reducing overall avian collision hazards, including for red knots, although species that rely on the offshore environment for breeding, feeding, or sheltering (*e.g.,* certain seabirds and waterfowl) may have increased exposure risk to turbines farther offshore. We appreciate the work of BOEM to evaluate and minimize avian collision risks in siting decisions, and this information has been added to the Supplement Document (Factor E—Wind Energy Development—Offshore). However, we also updated this section of the Supplemental Document to compare these distances offshore with red knot use areas delineated by Burger *et al.* (2012c, p. 373) based on geolocator results, which do appear to have some overlap with both the offshore commercial wind energy development leases executed to date and the Wind Energy Areas (WEA) where BOEM will focus for future leases, including areas off the mouth of Delaware Bay (BOEM undated, p. 1).

(25) Comment: One Federal agency stated that BOEM recently published a study on the relative vulnerability of migratory bird species to offshore wind energy projects on the Atlantic OCS; the study ranked the relative vulnerability of 177 migratory bird species to collision and displacement by offshore wind turbines. The relative collision vulnerability of red knot was ''medium'' and the relative vulnerability to displacement ''low.''

Our Response: We have reviewed this report and incorporated the findings into the Supplemental Document (Factor E—Wind Energy Development—Offshore). We note that some of the factors considered in this report are not specific to the *rufa* subspecies of *Calidris canutus,* and thus the numerical vulnerability scores are not applicable to *rufa.*

Comments From States

(26) Comment: One State expressed disappointment in the Service's communication regarding the proposed rule. Because of the wide geographic scope of this listing proposal, the Service should have engaged all of the State wildlife agencies for their input prior to publication and should have briefed the State agency directors about the proposed expansion of the rufa red knot's listed range. In addition, several States and other commenters stated that the proposed rule contained inadequate justification for a sweeping change in the red knot's range from previous Service documents (*e.g.,* 2006 to 2011 Candidate Notices of Review (CNORs)).

Our Response: We regret that this State is disappointed in our communication efforts on the rufa red knot proposed listing. We acknowledge the proposed range was greatly expanded from what was described in the last CNOR update, but the proposed rule (78 FR 60024) and this final rule contain our analysis of, and conclusions drawn from, the best scientific and commercial data available. Substantial new data have become available since 2011, the last year we were required to update the knot's CNOR form. We also acknowledge that the 2011 CNOR form indicates the rufa red knot's range is limited to coastal areas and did not include interior portions of the coastal States or any inland States. The 2011 CNOR was based on the best data available at the time. Our understanding of the species' biology and occurrence records evolved rapidly based on results from geolocator research followed by enhanced analysis of national and regional databases. The proposed rule (Rufa Red Knot Ecology and Abundance, pp. 21, 23) explained the best available data and supported the expanded geographic scope of analysis under the Act. The discussion of these data has been updated and expanded in the Supplemental Document (Species Nonbreeding Distributions; Migration—Midcontinent; Migration and Wintering Habitat—Inland; Population Surveys and Estimates—Inland Areas Spring and Fall). We will strive to improve our communication with the States as we greatly value our conservation partnerships.

(27) Comment: Several States and other commenters stated that the proposed rule is generally lacking in scientific evidence and is based on speculative information. For example, (1) in the proposed rule, the Service repeatedly made undocumented claims and speculated that a variety of items ''may'' be a factor that could cause the demise of the species; (2) in describing threats and risks to the red knot, the proposed rule used terms such as high uncertainty, expected, likely, may, could, possibly, and unknown but

possible; (3) although the best available science has been used to generate predictions about some possible future impacts, best available science has not been used to examine and explain the relevance of potential threats (*e.g.,* sea level rise, climate change) to recent red knot population trends; (4) because of the potentially serious ramifications of a Federal listing on Federal programs and permitting processes, it is neither sufficient nor professional to base listing decisions so heavily upon speculation; and (5) the principle of best available science must be used to demonstrate causal relationships between threats and population change. In a related comment, one commenter stated that it is well-established that the Act does not provide for the listing of species on the basis of speculative, uncertain, or inconclusive information. A number of courts (*i.e., Conner* v. *Burford, Trout Unlimited* v. *Lohn, Ctr. for Biological Diversity* v. *Lubchenco, Bennett* v. *Spear,* and *Nat'l Res. Council* v. *Daley*) have determined that the threshold decision to list a species as threatened or endangered is not to be based on speculation or a misplaced intent to err on the side of species conservation. The default position for all species is that they are not protected under the Act.

Our Response: We disagree that our analysis is ''speculative.'' The Service is required to make listing determinations based on the best scientific and commercial data available. Sources of data include peer-reviewed journal articles; field notes and other unpublished data; and personal communications with species, habitat, and policy experts. We analyze these sources of data and use our best professional judgment to determine their credibility, in accordance with applicable data standards (Interagency Policy on Information Standards Under the Endangered Species Act (59 FR 34271); Information Quality Act (P.L. 106–554, section 515); Information Quality Guidelines and Peer Review (USFWS 2012f, entire). All data have some level of uncertainty, but the proposed rule properly identified, through citations, the data sources and was transparent in qualifying areas and levels of uncertainty.

In making a listing determination, we evaluate the threats affecting a species in the past, currently, and into the foreseeable future. What constitutes the foreseeable future may be different for each threat, given our confidence in the sources of the data and their level of certainty regarding future conditions. The proposed rule and Supplemental Document discuss what information we can reliably use to reasonably foresee into the future. As discussed below, the Act and our policies do not require a definitive knowledge of what will happen in the future, only what we may reasonably predict is likely to occur. Although there is some inherent uncertainty surrounding the threats we evaluated for the red knot, this does not prevent us from making a credible assessment of the likely direction and magnitude of those impacts, even though it may not be possible to make such predictions with precision. In addition, the proposed rule and its underlying data were available for peer review and extensive public review and comment, but the commenters did not provide additional substantive information to refute our analysis or assumptions.

Under section 4 of the Act, a species shall be listed if it meets the definition of threatened or endangered because of any (one or more) of the five factors that are a basis for making a listing determination, considering solely best available scientific and commercial data. Although many species proposed for listing have undergone, or are undergoing, a population decline, declining numbers (rangewide or in portions of the range) are not necessary for listing if a species is facing sufficient threats, now or in the foreseeable future, to meet the definition of threatened or endangered. Accordingly, not all threats contributing to a species' threatened or endangered status must be tied to past or ongoing population declines; threats for which the species is listed may not be affecting the species at the time it is being evaluated for listing, but are likely to do so in the future.

The commenter is incorrect in asserting that ''the default position for all species is that they are not protected under the Act,'' or that listings must be based on conclusive evidence. As stated above, the Act and our policies do not require a definitive knowledge of what will happen in the future, only what we may reasonably predict is likely to occur when making a listing determination.

Further, our decisions are not based on speculation or misplaced intentions. The Act requires the Service to base its listing determination on the ''best scientific and commercial data available'' (16 U.S.C. 1533(b)(1)(A)). The ''best available science'' requirement does not equate to the best possible science. Instead, this information standard simply prohibits the Service from disregarding available scientific evidence that is better than the evidence it initially relied upon. The Service is required to rely upon the best available science, even if that science is uncertain or even ''quite inconclusive'' (*i.e., Trout Unlimited* v. *Lohn,* 645 F. Supp. 2d 929, 947 (D. Or. 2007) (''*Trout Unlimited*''); *Southwest Center for Biological Diversity* v. *Babbitt,* 215 F.3d 58, 60, 342 U.S. App. D.C. 58 (D.C. Cir. 2000)). The case law cited by the commenters supports this position.

In distinguishing endangered from threatened, Congress defined ''threatened'' species as a species that is ''*likely* to become an endangered species within the foreseeable future throughout all or a significant portion of its range'' (16 U.S.C. 1532(20)) (emphasis added). Courts have acknowledged the word ''likely'' clearly means something less than 100 percent certain (*Trout Unlimited* at 947). Moreover, courts have found that an agency is entitled to particular deference where it has drawn conclusions from scientific data (*i.e., Marsh* v. *Or. Natural Res. Council,* 490 U.S. 360, 375–77 (1989); *Ethyl Corp.* v. *EPA,* 541 F.2d 1, 36 (D.C. Cir. 1976); *Oceana* v. *Evans,* 384 F. Supp. 2d 203, 219 (D.D.C. 2005) (citing cases)).

(28) Comment: Several States and other commenters stated that the rufa red knot geographic range should include only areas where the species occurs regularly (annually or near annually), and should avoid identifying jurisdictions (*e.g.,* States) merely because they represent continuous geographies between discrete regularly used stopover sites. As presented in the proposed rule, the red knot range is inconsistent with how the Service has defined the range of other listed migratory birds. These commenters also noted that although eBird is a useful resource, the Service should not have used it as the sole source for determining the species' range in a listing process, and suggested a more thorough and comprehensive review of occurrence records should be conducted.

Our Response: In both the proposed and final rules, we have defined the rufa red knot's range based on the best available data; however, we recognize that scientific understanding of this species' range will likely continue to improve over time. The Service may define a species' range using State boundaries or other geographically appropriate scale. How range is defined depends on characteristics of the species' biology and how it is listed (*i.e.,* as species/subspecies or a distinct population segment (DPS)). A species' or subspecies' range is typically described at the state or country scale. While the range of a DPS listing can include entire States, it is more typically defined at a more refined geographic scale because we must define where the discrete entity occurs.

We defined the rufa red knot's range based on the data from reliable published scientific literature, submitted manuscripts, and species' experts; occurrence data; and analysis (*e.g.,* estimated flight paths based on known wintering and breeding grounds combined with siting records). The regulations at 50 CFR 17.11(e) state, the ''historic range'' indicates the known general distribution of the species or subspecies as reported in the scientific literature. The present distribution may be greatly reduced from this historic range. This column [in the table at 50 CFR 17.11(h)] does not imply any limitations on the application of the prohibitions in the Act or implementing rules. Such prohibitions apply to all individuals of the species, *wherever found* [emphasis added]. Therefore, whether a specific State or geographic area is included or excluded from the textual description of the rufa red knot's range, the subspecies would be protected under the Act wherever it may be found, for as long as it remains federally listed. (See also *Our Response 33* below.) Although a species is listed wherever found, we strive to accurately describe the range in the 50 CFR 17.11 table based on the best available data at the time of listing. For earlier listed species such as the piping plover and Kirtland's warbler, certain tools to help us understand the migration routes of birds (*e.g.,* satellite transmitters, geolocators, eBird) were not available at the time.

See *Our Response 82* for explanation of how we have interpreted and utilized eBird data. We did not solely rely on eBird data to determine the rufa red knot's range. In addition to eBird, we also relied heavily on Newstead *et al.* 2013 (draft manuscript we had at the time) and Morrison and Harrington 1992, and to a lesser degree on Skagen *et al.* 1999. These four sources constituted the best available data at the time. For this final rule, we have also considered an analysis for the Mississippi Flyway done by our Midwest Region Migratory Bird Program (Russell 2014), the State reports provided by the Central Flyway Council and other commenters, updated versions of Newstead *et al.* (2013) and Carmona *et al.* (2013), and all other relevant new information we have received since March 2013 when we completed drafting of the proposed rule. These new sources further validate our assumptions and conclusions outlined in the proposed rule. See *Our Response 35,* below, and the Supplemental Document (Subspecies Nonbreeding Distribution) regarding how we have delineated the nonbreeding ranges of *C.c. rufa* versus *C.c. roselaari* based on the best available data.

(29) Comment: Several commenters, including States, stated that they were unaware of any reliably used stopover sites for the red knot in the interior portion of the United States. These commenters contended that bird occurrence data do not support the existence of stopover sites (defined as habitats or locations that consistently provide migrants with the opportunity to refuel and rest) within the Central Flyway States, and that observed behavior and diet reinforce the concept that red knots do not regularly use and do not require any inland wetland locations as stopover sites within the interior of the Central Flyway. Further, most interior records are for vagrant, single birds, and interior sightings are so sparse that they are ecologically insignificant. These State commenters specifically requested removal of their particular States from the range, and requested that listing of the rufa red knot not confer any requirements for any Federal or State agency or private landowner. Conversely, one commenter rebutted that, as is frequently the case for ''jump'' migrants, periodic weather events or other circumstances occasionally result in birds being grounded in locations or habitats that are only infrequently used along the flyway. This commenter also stated that while this may be the case for some of the interior areas, recent communications with biologists working in North Dakota indicate that habitats in this region (*e.g.,* Missouri River sandbars) are far more regularly used than eBird records or other databases would indicate. Further, additional unpublished geolocator tracks also show use of sites throughout the Missouri Coteau, on both U.S. and Canadian sides of the border, as spring migration stopovers. This commenter stated that the Service should make a more complete assessment of the occurrence of the species in North Dakota, and possibly other States, by contacting other biologists that may have additional information that is not captured in electronic databases.

Our Response: We also are unaware of any consistently used rufa red knot stopover sites in the U.S. portion of the Central Flyway. However, all three of our primary sources (Newstead *et al.* 2013, Skagen *et al.* 1999, and eBird.org 2014) suggest that habitats in the plains of southern Canada (Alberta, Saskatchewan, Manitoba) are routinely relied upon by migrating knots at least under certain conditions (*e.g.,* favorable water levels). In addition, from the relatively small sample size in Newstead *et al.* (2013, p. 56), one of six birds used North Dakota for 14 days in spring. We do not yet know how aberrant or representative this bird was, but these results indicate the possibility that the documented Northern Plains stopover region may be found to extend into the United States, as research on midcontinental migrants continues. This possibility is supported by the new geolocator information regarding additional knots on the U.S. side of the Missouri Coteau (D. Newstead pers. comm. May 8, 2014), including three in northern North Dakota, two in northern Montana, and one possibly further south (*e.g.,* Nebraska) (D. Newstead pers. comm. May 16, 2014). Newstead *et al.* (2013, p. 56) found that the Northern Plains were used as a northbound stopover by five of six birds in 2010 (including the one in North Dakota), with the sixth bird using Hudson Bay. Hudson Bay was used by three of three birds in 2011. Although the sample size (*e.g.,* recovered geolocators) is small, a large proportion of the recovered geolocators show red knots using a midcontinental flyway. Therefore, these results suggest that, in years when conditions favor it, a large proportion of midcontinental migrants may use Northern Plains stopovers in spring. In addition, birds using the Northern Plains as a spring stopover stayed an average of 16.2 days (Newstead *et al.* 2013, Table 3); this was not a short stop but actually similar to the stopover duration in Delaware Bay.

In the proposed rule, we did not define ''stopover site.'' In the Supplemental Document (Migration—Stopover Areas), we have added clarification that places where migrant birds stop to rest, drink, and eat are often described as either stopover or staging sites, with the two terms frequently used interchangeably (Warnock 2010, p. 621). We have adopted the definitions of Warnock (2010, p. 621) that all sites where migrants rest and feed are stopover sites, while staging sites are a subset of stopovers that provide abundant and predictable food resources without which birds would incur significant fitness costs.

We agree that many of the inland red knot sightings to date represent single birds. However, we understand the term ''vagrant'' to mean a bird that has strayed or been blown far from its usual range or migratory route; synonymous with ''accidental.'' According to Russell (2014, p. 1), ''accidental'' implies an extraordinary record, out of the normal pattern, and unlikely to occur again. Based on this understanding of the term,

we disagree with characterizing rufa red knots in the Central Flyway as vagrant, based on geolocator results showing that the midcontinent does constitute the most prevalent migratory route for at least some birds that winter in Texas (D. Newstead pers. comm. May 8, 2014; Newstead *et al.* 2013, entire). Based on these geolocator data, we conclude that a substantial proportion of Texas-wintering knots pass over the Central Flyway twice annually during migration. Other than the Northern Plains of southern Saskatchewan (and potentially extending into the northern U.S. plains), we are not currently aware of any other stopover sites in the Central Flyway that are routinely or intermittently relied upon by a substantial number of birds.

Further, there are clusters of sightings records in both the midcontinent and further east through the Mississippi Valley and along the Great Lakes. These cluster areas warrant further study to more fully evaluate their usage as red knot stopovers. (See Supplemental Document section Migration—Midcontinent—Stopovers.) As recommended by one commenter, we anticipate a more complete assessment of unpublished or anecdotal sightings data in the course of recovery planning. The existence of such additional sightings data, and the geographic clustering of the eBird data along water bodies, suggest that some inland areas may, upon further study, be found to routinely or intermittently support roosting and feeding red knots during migration.

(30) Comment: Several States and other commenters noted Newstead *et al.'s* (2013) findings that more than 10,000 red knots from the Atlantic coast have been uniquely marked. These commenters highlighted the authors' conclusion that ''The paucity of resightings in Texas suggests that most of these knots probably do not share the same wintering or stopover sites as those associated with the West Atlantic flyway.''

Our Response: We agree that available data do not show any use of a midcontinental (inland Texas through North Dakota) flyway by knots known to winter or stopover along the U.S. Atlantic coast. However, Newstead *et al.* 2013 go on to say, ''The paucity of resightings in Texas suggests that most of these knots probably do not share the same wintering or stopover sites as those associated with the West Atlantic flyway, *though the paucity may be the result of limited effort and/or reporting*'' [emphasis added]. Indeed, we have updated the Supplemental Document with new geolocator data confirming earlier indications (from resightings) that at least some Texas-wintering knots do mix with Atlantic coast birds during migration, both in Canada (Migration—Midcontinent—Spring) and the United States (Migration—Midcontinent—Flyway Fidelity).

(31) Comment: Several States and other commenters stated that records of this species' occurrence in the midcontinent suggest red knots use a ''jump'' migration strategy, whereby birds fly over the Southern and Central Great Plains and stopover at sites in the Northern Great Plains, principally in Southern Canada. Further, both spring and fall migrations involve a single 2- or 3-day flight between the Gulf coast and Canada.

Our Response: We agree that this picture of midcontinent migration (long ''jumps'' mainly to Southern Canada) is consistent with best available data. However, that body of available data (mainly Newstead *et al.* 2013, Skagen *et al.* 1999, and eBird.org 2014) is not extensive. Newstead *et al.* (2013) did find 2- or 3-day migration flights between Texas and the northern stopovers, based on a sample size of eight geolocators, some of which had been carried by the same birds for 2 full years. In addition to Newstead's research, our review of reliable national and regional occurrence data (Central Flyway Council 2013; eBird 2012; A. Simnor pers. comm. October 15, 2012) found multiple rufa red knot sighting records in every interior State. See *Our Response 29* for discussion of potential stopover areas in the interior United States.

(32) Comment: Several States and other commenters stated that a separate population of rufa red knots exists in the midcontinent of the United States and this population may constitute a DPS; therefore, a DPS analysis should be conducted. Further, these commenters stated that there is no compelling evidence that the midcontinental population meets the definition of threatened and none of the threats affecting the Atlantic coast population are applicable to the midcontinental population.

Our Response: Under the Act, we may list a species, subspecies, or a DPS of a vertebrate species. The Act's definition of ''species'' includes ''any subspecies of fish or wildlife or plants, and any distinct population segment of any species of vertebrate fish or wildlife which interbreed when mature.'' We have no evidence that the rufa red knot is composed of separate populations that may warrant protection of the Act at less than the subspecies level. Based on the best scientific and commercial data available, we determined the *rufa* subspecies of the red knot to warrant listing as threatened throughout its entire range.

(33) Comment: Several States and other commenters stated that giving infrequently or unused areas the same standing as regularly used and critically important sites ultimately hinders conservation efforts and is counterproductive. Listing in the Central Flyway States will result in expenditure of resources and create unnecessary bureaucracy (*e.g.,* to conduct consultations) in areas with little to no occupancy, potentially diverting resources away from coastal habitats where they would have substantially greater conservation benefit. Further, listing in the Central Flyway States has no conceivable conservation benefit to red knots or to noncoastal wetland habitats, which already derive protection from other listed species like the piping plover, whooping crane, and interior least tern.

Our Response: We disagree. The Service must make its determination on whether a species, subspecies, or DPS meets the definition of threatened or endangered based solely on the best available scientific and commercial data. This determination is based only on an analysis of the population and threats affecting the species as set forth under sections 4(a) and 4(b) of the Act. The extent to which a potential listing will or will not advance the conservation of any particular ecosystem (*e.g.,* noncoastal wetlands) is not a factor we may consider when determining whether a species meets the definition of threatened or endangered, nor may we consider economic information, including workload implications. As discussed above in *Our Response 28,* the provisions of the Act apply to all individuals of a listed species *wherever found* (emphasis added). Upon listing, therefore, the rufa red knot is protected by the Act wherever it occurs, even as scientific understanding of its range will likely continue to improve over time. That said, the Service has the appropriate tools under sections 7 and 10 of the Act to work with our State, Federal, and private partners to appropriately evaluate the likelihood of effects to red knots stemming from proposed activities. Such evaluations will be based on the species' level of exposure to the proposed activity, including the frequency and consistency of the species' occurrence in the affected area, and the type of activity, including its timing and duration. These evaluations may be done at different geographic scales.

During the recovery planning process we will focus on those stopover sites, both coastal and inland, that support the largest concentrations of birds, based on best available data. Inland habitats could be an important feature for certain flyways at certain times (*e.g.,* during particular weather conditions). Based on best available information, the Texas-wintering birds using the Central Flyway are important to the red knot's overall conservation because these birds contribute to the subspecies' resiliency and geographic representation. Protecting these birds and their habitats under the Act does have conservation benefit to the rufa red knot.

(34) Comment: One State commented that, given the longitudinal relationship between the Atlantic coast of the United States and the Pacific coast of South America, as well as the documented occurrence of marked *Calidris canutus rufa* in Panama and the central coast of Chile (González *et al.* 2006), it is conceivable that some *C.c. rufa* winter in sympatry (*e.g.,* occur in the same area) with *C.c. roselaari* along the Pacific coasts of Peru and Chile. Further, the subspecific affiliation of the knots that winter along the Pacific coast from southern Mexico through Chile is currently uncertain (78 FR 60024, p. 60026).

Our Response: We agree. We have updated the Supplemental Document (Subspecies Nonbreeding Distributions) with considerable new information and new conclusions regarding the nonbreeding distributions of the *rufa* and *roselaari* subspecies, including areas of likely or potential overlap.

(35) Comment: Several States and other commenters noted that the proposed rule includes inland States with low *Calidris canutus* occurrence (*e.g.,* Nebraska) while excluding other inland States with more numerous *C. canutus* occurrence records (*e.g.,* Utah). Despite past uncertainty, *C.c. roselaari* is now believed to be restricted to the Pacific coast based on current information.

Our Response: Numerical prevalence of *Calidris canutus* does not shed light on which subspecies (*C.c. roselarri* or *C.c. rufa*) predominate in any particular area. There is considerable uncertainty regarding the subspecific identity of *C. canutus* in the western interior United States, and it is possible that the two subspecies both occur in this area during migration. This uncertainty was reflected in questions 5 and 10 under ''Information Requested'' in the proposed rule (78 FR 60025). Despite a number of population-wide morphological differences (USFWS 2011a, p. 305), the *rufa* and *roselaari* subspecies cannot be distinguished in the field because physical variability among individuals results in overlaps in many physical parameters (*e.g.,* wing and bill length) between the two subspecies (USFWS 2011a, p. 205; Harrington 2001, pp. 4–5; Harrington *et al.* 1988, p. 441). Because these two subspecies cannot be distinguished in the field, other methods (*e.g.,* mark-resighting efforts, stable isotope analysis, genetics) are needed to delineate their distributions (D. Newstead pers. comm. September 14, 2012).

As discussed under *Our Response 28* and detailed in the Supplemental Document (Subspecies Nonbreeding Distributions—Western Interior United States), we defined the rufa red knot's Western U.S. range based on best available data from reliable published scientific literature, submitted manuscripts, and species' experts; occurrence data; and analysis (*e.g.,* estimated flight paths based on known wintering and breeding grounds combined with siting records). While it is possible that rufa red knots range nearly all the way to the Pacific coast during migration, we do not have any evidence to date (*e.g.,* genetics, mark-resightings, geolocator data, or stable isotope data) of *rufa* west of the Great Plains. We acknowledge considerable uncertainty around the subspecies composition in the Western States but conclude, based on best available data, that the *rufa* range likely extends to the western limit of the Great Plains (as mapped by the Level I ecoregions (U.S. Environmental Protection Agency (USEPA) 2013a)). See also *Our Response* 82 below.

(36) Comment: One State and several other commenters stated that, prior to a listing determination, more information is needed regarding the status and characteristics of red knot populations (*e.g.,* population status in Texas, connectivity of migratory flyways). In addition, gathering more scientific research on the red knot population in Texas will improve viability assessments of the entire subspecies throughout its range.

Our Response: The proposed rule presented best available data regarding red knot population size, diet, habitat use, and threats in Texas, as well as the prevalence and migration patterns of *Calidris canutus rufa* versus *C.c. roselaari* in Texas (Rufa Red Knot Ecology and Abundance pp. 5–7, 9, 14–16, 21–24, 27, 34–35, 42; Factor D pp. 10–11; 78 FR 60024, pp. 60030, 60033, 60035, 60039–60042, 60044–60045, 60052, 60056, 60059, 60063, 60078, 60081, 60085–60086, 60089, 60092). Section 4 of the Act directs that listing determinations be made on the basis of the best scientific and commercial data available. We evaluated approximately 1,400 references during the preparation of the proposed rule, and communicated with numerous species and threats experts, to comply with this data standard required by the Act. We solicited peer review on the proposed rule. Peer review comments are reflected in the Supplemental Document, which has also been updated with new data regarding Texas, the nonbreeding distribution of rufa red knots, and connectivity of the flyways (Subspecies Nonbreeding Distributions; Migration; Migration and Wintering Habitat) that has subsequently become available through the public comment period and clarification from experts. Although a more complete picture of red knot ecology in Texas will be helpful for recovery planning, research to generate these new data is not yet available. As discussed in *Our Response 27* above, the ''best available science'' requirement does not equate to the best possible science. We acknowledge certain data gaps (78 FR 60024, pp. 60024–60025) and uncertainties, some of which are inherent in all natural systems and all evaluations of future conditions; however, we conclude that the best available data are sufficient to document several population-level threats to the red knot, as well as its reduced population size relative to the early 1980s, and thus conclude that the red knot meets the definition of a threatened species.

(37) Comment: One State commented that the proposed rule did not provide comprehensive population numbers for either the historical or current population size for this subspecies or estimates that encompass the entire wintering range, the entire nesting range, or all of the potential migration stopover habitats along the U.S. Atlantic coast. This commenter believes the proposal gave undue importance to population trends at only two locations, Delaware Bay and Tierra del Fuego, and that maximum percent declines at these two sites are not sufficient for an evaluation of the severity of the apparent [rangewide] population decline. Further, because the red knot is highly mobile and individual birds and flocks appear to be capable of using different locations as stopover points from year to year, a more rigorous approach than subsampling should be used to assess population changes. Another commenter believes 40 years of data are not enough to show a trend in red knot populations and the Service

should look at hundreds of years of data.

Our Response: As discussed in the Supplemental Document (Population Surveys and Estimates), we conclude that we do not have sufficient reliable data on which to base a precise rangewide population estimate. Thus, we have instead considered the best available data, which consists of survey data for specific regions. In the proposed rule, we limited our conclusions to trends within each regional data set (Rufa Red Knot Ecology and Abundance, pp. 53–54), though we did note a temporal correlation between declines at Tierra del Fuego and Delaware Bay (Rufa Red Knot Ecology and Abundance, p. 48). Although we lack sufficiently robust data to conclude if other wintering and stopover areas also declined, we conclude it is likely that declines at Tierra del Fuego and Delaware Bay drove an overall population decline (*i.e.,* lower total numbers), because these two sites are believed to have supported a large majority of rangewide knots (see *Our Response 38*). We note that our calculation of those regional declines (75 percent at Tierra del Fuego and 70 percent at Delaware Bay) are based on averages of early and late time periods, calculated to smooth out inherent variability in the data. In contrast, the maximum declines (*i.e.,* comparing only the single lowest count with the single highest count) were both recorded in 2011 and show an 81 percent decline at Tierra del Fuego and an 87 percent decline at Delaware Bay. Despite the above-mentioned limitations in producing a rangewide population estimate, we do note that several analyses conducted by others all concluded red knot numbers declined, probably sharply, in recent decades. While we did not rely on these other analyses, we do note that they are independently consistent with the conclusions we draw from the available (regional) data sets.

A more rigorous survey regime to estimate rangewide population changes over time may become available in the future. For example, mathematical population size estimates based on marked birds were begun in 2011 in Delaware Bay (J. Lyons pers. comm. September 3, 2013) and Georgia (GDNR 2013). This new method does not yet allow for trend analysis because only a few data points are available, and does not yet have the geographic coverage to permit a rangewide population estimate. However, the Act requires that we make listing determinations based on the best available data. The proposed rule identifies and evaluates the best available population information, which is associated with high confidence in those regions with long time series and consistent survey methods (*e.g.,* Delaware Bay, Virginia, Tierra del Fuego).

We disagree that these best available data cover an insufficient time period for trend analysis. Even with inherent annual variability, we conclude the available data are sufficient to document a sharp and prolonged period of decline in red knot counts in Delaware Bay and Tierra del Fuego in the 2000s. Further, we have gathered best available historical data dating back to the mid-1800s, as presented in the proposed rule (Rufa Red Knot Ecology and Abundance) and the Supplemental Document (Historical Distribution and Abundance, pp. 33–36). Although these historical data do not permit a quantitative analysis, they do convey a consistent qualitative account of historical declines and followed by, at least, a partial recovery.

(38) Comment: One State questioned the validity of applying the observed decline in Delaware Bay to the entire population since, despite its apparent importance, the bay represents only a small portion of the Atlantic coast and the potential stopover habitat available to migrating red knots.

Our Response: While, geographically, Delaware Bay represents only a small proportion of the total U.S. Atlantic coast, we conclude the bay supports a significant proportion of the total rufa red knot population during spring migration (Brown *et al.* 2001, p. 10), as discussed in the proposed rule (Rufa Red Knot Ecology and Abundance, p. 29). Although no current, reliable, rangewide population estimate is available, reliable regional population data are available (see *Our Response 77;* Rufa Red Knot Ecology and Abundance, pp. 38–52; and Population Surveys and Estimates in the Supplemental Document). We have analyzed the most recent estimates of red knot numbers from each wintering region, Delaware Bay peak counts from the past 10 years, and Delaware Bay total passage population estimates from the past 3 years. Based on this analysis, we conclude that Delaware Bay continues to support the majority of red knots during spring.

That said, we agree that extrapolation of population declines in Delaware Bay to the rest of the red knot population should be conservative and undertaken only when supported by corroborating data. In the proposed rule, we presented data for specific regions (Rufa Red Knot Ecology and Abundance, pp. 38–52) and limited our conclusions to trends within each regional data set (Rufa Red Knot Ecology and Abundance, pp. 53–54). However, we also stated, ''the pattern and timing of these declines in Delaware Bay relative to Tierra del Fuego and other stopovers is suggestive of a decrease in the overall population'' (Rufa Red Knot Ecology and Abundance, p. 48). We agree that this statement was imprecise and have revised the Supplemental Document (Population Surveys and Estimates—Spring Stopover Areas—Delaware Bay) to clarify our conclusions drawn from best available data. We have also revised the Supplemental Document (Summary—Population Surveys and Estimates) to clarify, ''Although we lack sufficiently robust data to conclude if other wintering and stopover areas also declined, we conclude it is likely that declines at Tierra del Fuego and Delaware Bay drove an overall population decline (*i.e.,* lower total numbers), because these two sites supported a large majority of rangewide knots during the baseline 1980s period.''

(39) Comment: One State commented that the annual variation in the Delaware Bay peak counts suggests that knots are capable of altering their stopover behavior between years. It is unlikely that the actual population fluctuates at the high magnitude reflected in the Delaware Bay peak counts; therefore, year-to-year changes are probably related to variations in passage rates for birds moving through the region and variations in the use of multiple stopover sites.

Our Response: We agree that the Delaware Bay peak counts are highly variable, but conclude that much of the short-term (year-to-year) variation can be attributed to the fact that peak counts are only a proxy measure for the total passage population. Year-to-year differences in the month-long patterns of arrival and departure would affect the percentage of total passage population that is captured by each year's peak count (*e.g.,* some years more birds may depart early and be missed by the late-May peak count). It is also possible that the survey date has missed the true peak number of birds in some years, particularly after 2008 when weekly, season-long survey efforts were scaled back to focus only on the end of May. That said, we also agree that red knots may switch between mid-Atlantic stopovers between, and even within, years, and that this flexibility may explain part of the variability in the data from both Delaware Bay and Virginia (Supplemental Document tables 8 and 11). We noted this flexibility in spring stopovers in the proposed rule (Rufa Red Knot Ecology and Abundance, p.

20). Despite the high variability, we attach high confidence to the long-term trend evident in the Delaware Bay peak count data, based on the consistent methods and observers, particularly during the core years of 1986 to 2008.

(40) Comment: One State and several other commenters stated that recent population estimates calculated from resightings of banded knots using capture-recapture statistical methods should not be conflated with long-term data sets of maximum 1-day (peak) counts.

Our Response: The proposed rule (Rufa Red Knot Ecology and Abundance, pp. 47–51) did not conflate population estimates derived from these two different methods. As we explain in the Supplemental Document (Population Surveys and Estimates—Spring Stopover Areas), because birds pass in and out of a stopover area, the peak count (the highest number of birds seen on a single day) for a particular year is lower than the total passage population (*i.e.,* the total number of birds that stopped at that site over the course of that migration season). For this reason, we have not compared data sets estimating total passage population (from capture-recapture statistical methods) with those of peak counts (maximum 1-day counts). We present these data sets separately in tables 9 to 13 of the Supplemental Document, with data updates where available.

(41) Comment: One State concluded that peak red knot numbers in Delaware Bay have been stable to increasing since 2002, while another commenter concluded that red knot numbers in Delaware Bay continue to decline.

Our Response: We disagree with both of these conclusions. We find that peak counts from 2002 through 2008 continued to show a slight downward trend. Peak counts from 2009 through 2014 appear to have been stable to slightly increasing, despite lower confidence in these recent counts due to multiple shifts in methodology and surveyors. Average peak counts for the last decade (2005 to 2014) remain about 70 percent lower than during the baseline period of 1981 to 1983. See Supplemental Document, Population Surveys and Estimates—Spring Stopover Areas—Delaware Bay.

(42) Comment: One State and several other commenters noted that the ARM model established a threshold of red knot abundance (45,000 or half of the historical peak counts) which, when reached, will trigger female crab harvest. As this threshold was derived from peak counts, it must be adjusted upward to account for differences in methods before it can be judged against new estimates of total stopover population derived from mark-resighting data. One State also commented that the mark-resighting method is of limited value in trend assessment because population estimates cannot be made retrospectively, but did acknowledge that it is probably the most robust method of estimating actual stopover population numbers and, therefore, will be useful in developing future trend information.

Our Response: We agree that the threshold must be revised and note that this adjustment has already been made. This threshold, used in the ASMFC's management of the HSC fishery under the ARM, has now been adjusted upward to account for differences in methodology. In September 2013, the ASMFC's Delaware Bay Ecosystem Technical Committee adopted a ratio of 1.82, and adjusted the threshold from 45,000 to 81,900 red knots. This ratio may be refined when the ARM model is re-evaluated in the future (ASMFC 2013e, p. 1). We agree that this is a robust method of estimating stopover populations, but also agree that the mark-resighting method cannot yet be used for trend analysis because too few data points are available to date. No accurate estimates of the total stopover population using the methods of J. Lyons (pers. comm. September 3, 2013) can be calculated prior to 2011, when the required data began to be collected. However, estimates prior to 2011 are not needed to implement the ARM model as decisions on HSC harvest are based upon the current populations of HSCs and red knots. For red knot population trend analysis in Delaware Bay, we have relied on the peak counts (see *Our Responses 37* and *39.*)

(43) Comment: One State said that it had difficulty evaluating the geographic adequacy of the winter surveys in Tierra del Fuego and the southern coastline of Argentina, because these surveys may or may not cover a sufficiently large portion of the wintering range to develop a comprehensive population estimate. This State questioned if it is possible that red knots winter outside of the surveyed area further north along the coast lines of Argentina and Chile, or on the Falkland Islands.

Our Response: Much of what we know about the distribution of wintering red knots along the coasts of South America comes from Morrison and Ross (1989), who reported the results of aerial surveys conducted from 1982 to 1986. This survey effort covered nearly the entire Atlantic, Pacific, and northern coasts of South America (Morrison and Ross 1989, Vol. 1, p. 22). During these extensive surveys, *Calidris canutus* was observed only in Tierra del Fuego and the Patagonian coast of Argentina, the north coast of Brazil, and western Venezuela (Morrison and Ross 1989 Vol. 1, pp. 37, 40–41). Although Morrison and Ross (1989) did not observe *C. canutus* along the Pacific coast of South America, they recorded substantial numbers of unidentified medium-sized shorebirds in several locations, including some areas with reports of *C. canutus* from other sources (eBird.org 2014; Carmona *et al.* 2013, pp. 175, 180; Ruiz-Guerra 2011, p. 194; Morrison and Ross 1989 Vol. 1, p. 40; Hughes 1979, pp. 51–52). In the proposed rule (Rufa Red Knot Ecology and Abundance, pp. 38–42), we presented the data of Morrison and Ross (1989) as well as all available results of more recent survey efforts for the known and possible range of *C.c. rufa,* which includes the east and north coasts of South America. These data have been updated in the Supplemental Document (Population Surveys and Estimates). Based on new information indicating that at least some of the *C. canutus* on the central Pacific coast of Chile are also *C.c. rufa,* we have also added best available abundance data for the west coast of South America (Population Surveys and Estimates—Central America and Pacific South America). We are unaware of any published or unpublished *C. canutus* reports from the Falkland Islands, there are no reports of these species for that area in eBird (eBird.org 2014), and no other datasets for the Falkland Islands were provided during the comment period. The lack of data may be explained by an apparent lack of survey efforts.

(44) Comment: One State commented that, based upon its review of the threats analysis published in the listing proposal, it does not find compelling evidence that the *rufa* subspecies of the red knot warrants listing as a federally threatened species throughout the eastern half of the United States. Other commenters stated that listing of the rufa red knot is not warranted based on a lack of compelling evidence in the proposed rule, and that the threatened determination relies on speculative future conditions. An additional commenter stated that a reasonable determination could also be made that adequate conservation measures already exist to reasonably protect red knot populations and that forecasting cumulative worst case scenarios to determine species risk does not meet the test of 50 CFR 424.4(a)(1) for adding a new species to the list of threatened and endangered species. Conversely, other commenters stated that we should list

the red knot as endangered or use our authorities for emergency listing, while another commenter mentioned that the previous change in the rufa red knot's listing priority number was no guarantee that it would be listed.

Our Response: See *Our Responses 27, 36, and 71* regarding how we satisfied the Act's information standard. The proposed rule and its underlying data were available for extensive public and peer review and comment. The commenters did not provide additional substantive information to refute our analysis or assumptions. We disagree that this listing determination relies on cumulative-worst case scenarios, and instead find that the red knot meets the definition of a threatened species based on several population-level threats. Particularly considering the cumulative effects of ongoing and emerging threats, and considering that several populations of red knots have already undergone considerable declines and remain at low levels, we conclude that the best available data constitute compelling scientific evidence that the red knot meets the definition of a threatened species.

As noted in the proposed rule (Previous Federal Actions, p. 2), the listing priority number was changed (from 6 to 3) in 2008. The commenter is correct that candidate species of any listing priority number are not guaranteed to be listed—new information may become available that causes us to change our conclusion that listing is warranted. However, this is not the case for the red knot. As for the need to emergency list, this request is moot because the red knot will become listed as threatened upon the effective date of this rule. As noted in the proposed rule (Previous Federal Actions, pp. 1–2), we previously determined that emergency listing was not warranted, and we had no new information to indicate emergency listing was warranted at the time of, or subsequent to, the proposed rule.

We have carefully reviewed all new information since the proposed rule, and continue to find that the red knot meets the definition of a threatened species under the Act. We do not find that the red knot warrants listing as endangered based largely on the fact that red knot populations in Tierra del Fuego and Delaware Bay, although still at historically low levels, appear to have stabilized since about 2009, suggesting that the red knot is not currently at risk of extinction, but is likely to become so in the foreseeable future.

(45) Comment: One State and an additional commenter expressed concerns that threats in other habitats outside of Delaware Bay are having a disproportionate effect on the red knot because the Delaware Bay remains in a ''depauperate state,'' at least as it pertains to shorebirds (*i.e.,* HSC population levels are too low to provide the ''super-abundance of eggs''). Because of this egg insufficiency, threats in other habitats used during the red knot's annual cycle will have a proportionately greater effect on red knot population viability. Thus, addressing the HSC egg food supply in the bay must remain at the forefront of red knot recovery efforts.

Our Response: We disagree that the bay is currently ''depauperate'' for shorebirds, but agree that the HSC egg supply should remain a focus of red knot recovery work. As noted in the proposed rule (78 FR 60024, p. 60063), most data suggest that the volume of HSC eggs is currently sufficient to support the Delaware Bay's stopover population of red knots at its present size. This conclusion seems to be holding, as red knot weight gain was good during spring 2014, for a third consecutive year (A. Dey pers. comm. July 23, 2014). However, it is not yet known if the egg resource will continue to adequately support red knot population growth over the next decade. Thus, we agree that sustained focus on protecting the red knot's food supply is vital to the recovery of the red knot, and will be addressed during the recovery planning process. Further, we intend to continue our active role in the ASMFC's management of the HSC fishery. Under the ARM we do not anticipate the bait harvest will slow red knot population growth (see *Our Response 48*) (Smith *et al.* 2013, p. 8).

We also agree that a number of other threats are likely contributing to habitat loss, anthropogenic mortality, or both, and thus contribute to the red knot's threatened status, particularly considering the cumulative effects of these threats, and that populations of this species have already undergone considerable declines in key areas.

(46) Comment: One State and several other commenters stated that the Delaware Bay HSC population has not recovered and concluded that management of this fishery to date has not accomplished its objectives and has proven inadequate to reverse declines. Several commenters noted that no class of HSC (by sex or age) has shown any recovery as measured by the Virginia Tech Horseshoe Crab Trawl Survey or the Delaware Bay 16-foot Trawl Survey. Further, positive trends in female HSC populations are absent, even after 7 years of male-only harvest, which is consistent with significant unaccounted losses of female crabs, for example, from mortality caused by biomedical harvest, poaching, and bycatch. In addition, one State commented that the 2013 defunding of the Virginia Tech Trawl Survey adds to uncertainty that the data sources relied upon in the ARM models will be consistently available. In contrast, one commenter stated that, while the benthic trawl survey is the best survey to support the ARM, a sound strategy has been developed to use the NEAMAP data to support the 2014 modeling efforts for the 2015 fishery, and the ASMFC Horseshoe Crab Management Board and ARM Working Group anticipate the continued use of the ARM framework for management.

Our Response: Numerous data sets are available regarding the Delaware Bay HSC population. We rely on ASMFC's periodic stock assessments to appropriately weigh and statistically analyze these data sets to draw conclusions regarding HSC population trends, as discussed in the proposed rule (78 FR 60024, p. 60066). The Supplemental Document (Factor E—Reduced Food Availability—Horseshoe Crab Harvest—Link A, Part 2) has been updated to include the results of the 2013 stock assessment update. The 2013 stock assessment update concluded that, in the Delaware Bay Region, there is evidence of increases in certain age or sex classes, but overall population trends have been largely stable (neither increasing nor decreasing) since the previous stock assessment in 2009 (ASMFC 2013b, p. 22). These 2013 stock assessment findings are consistent with our conclusions in the proposed rule (78 FR 60024, p. 60066) that HSC population declines were observed during the 1990s, increases (though not a full return to 1980s levels) and stabilization occurred in the early 2000s, and various data sets have differed with no consistent trends since 2005. We note that the ARM framework does not define a ''recovery'' population level for Delaware Bay HSCs, but instead seeks to set the crab harvest at a level that does not slow the achievement of an agreed-upon red knot population target.

We disagree that ASMFC's regulatory approach has been inadequate. In addition to restricting harvests through the Fisheries Management Plan (including the most recent iteration, the ARM), the ASMFC has taken several proactive steps including establishment of a Technical Committee to focus on shorebirds, requesting the establishment of an HSC reserve in Federal waters, supporting work on alternative baits, and reducing demand by promoting bait-saving devices. These efforts

reduced reported landings (ASMFC 2009a, p. 1) from 1998 to 2011 by more than 75 percent (78 FR 60024, p. 60064). We believe it is premature to state that the ASMFC's regulatory approach has not accomplished its objectives. Rather, we anticipate that this regulatory approach, currently reflected in the ARM framework, will allow for HSC and red knot population growth to meet ASMFC objectives. However, even highly successful harvest management under the ARM will only meet its objectives to the extent that the HSC population remains limited by harvest. For example, food resources, habitat conditions, and other conditions that affect growth, survival, and carrying capacity of HSCs in the Delaware Bay Region may have changed over time and cannot be affected by management of the fishery.

Regarding when to expect female HSCs to show an increase based upon existing monitoring programs, several areas need to be considered including the ability of the monitoring programs to detect change in the populations, our understanding of how the population may respond, and other factors such as food availability for HSCs, as well as bait and biomedical mortality. Horseshoe crabs take 9 to 12 years to reach breeding age, and modeling suggests that it will likely take longer than one generation for adult abundance to increase. See *Our Response 49* below regarding possible sources of HSC mortality not explicitly accounted for in the ARM models.

We agree that the Virginia Tech survey is the best benthic trawl survey to support the ARM. In the absence of the Virginia Tech survey, we support the ongoing efforts of the ASMFC to adapt the NEAMAP data for use in the models. However, efforts to date have not identified a method by which the NEAMAP data can allow for the functioning of the ARM models (ASMFC 2014b). Stable funding sources for the other baywide monitoring programs are also a concern. Insufficient monitoring has already impacted the ability of the ASMFC to implement the ARM as intended (ASMFC 2014b; ASMFC 2012c, p. 13). If the ARM cannot be implemented in any given year, the ASMFC would choose between two options based on which it determines to be more appropriate—either use the previous year's harvest levels (as previously set by the ARM), or revert to an earlier management regime (ASMFC 2012e, p. 6). Although the HSC fishery would continue to be managed under either of these options, the explicit link to red knot populations would be lost. Absent the necessary HSC monitoring data to use the ARM models for the 2015 season, ASMFC (2014b) has opted to use the 2014 harvest levels which we considered at the time to adequately ensure the red knot's food supply. We have revised the Supplemental Document (Factor E—Reduced Food Availability—Horseshoe Crab Harvest—Adaptive Resource Management) to reflect this new uncertainty about the future of the ARM.

(47) Comment: One State commented that recent efforts to develop an artificial bait for the conch and eel fisheries could reduce demand for HSCs as bait and reduce the HSC harvest, thereby benefitting HSC (and red knot) rebuilding. However, to realize a significant benefit to the HSC population, the use of artificial bait would need to reduce harvest/demand for HSCs to a level below quota levels.

Our Response: We agree that HSC alternatives offer the possibility of substantial conservation benefits to the red knot. In the proposed rule (78 FR 60024, p. 60067), we noted efforts to develop an artificial bait to replace HSCs, as well as work toward alternatives to the biomedical HSC product Limulus Amebocyte Lysate. We have updated the Supplemented Document (Factor E—Reduce Food Resources—Horseshoe Crab Harvest—Link A, Park 2) with new information on artificial bait from the University of Delaware (Wakefield 2013). We support these efforts, which would reduce or eliminate the demand for harvesting HSCs. However, until bait or lysate alternatives are widely adopted, we anticipate that management of HSC harvests under the ARM will continue to adequately abate the food supply threat to red knots from HSC harvest in the Delaware Bay. (However, see *Our Response 46* regarding new uncertainty about the future of the ARM.)

(48) Comment: One State and several other commenters expressed concern that, under the ARM, Delaware Bay HSC populations are not expected to recover for 60 years. One State indicated that the carrying capacity of Delaware Bay for female crabs is estimated at 14 million individuals while the current female population estimate is 4.5 million, and growth to carrying capacity would take more than 100 years according to simulations by Smith *et al.* (2013). Another commenter stated that the number of crabs must return to the levels of the early 1990s to support the recovery of the red knot. Several of these commenters believed that the ARM models value harvest (give it ''utility'') above a speedy recovery of HSCs. Another commenter stated that it remains to be seen if the HSC population will respond to recent harvest quotas set by the ASMFC and that the food supply for red knots in Delaware Bay remains uncertain for at least the near term. Conversely, one commenter stated that assertions that the HSC population must increase by an order of magnitude to have a beneficial impact on survival of the red knot population are not supported by defensible data.

Our Response: We disagree with these conclusions regarding HSC population growth rates and target population levels. In a recent study, Smith *et al.* (2013, entire) ran computer simulations to test how uncertainty affects the management of the Delaware Bay HSC population under the ARM. These authors presented charts with simulated population trajectories of both HSCs and red knots. However, these simulations were intended to illustrate the role of uncertainty in the ARM framework, not to predict recovery times. Because it is adaptive in nature (*i.e.,* each year's harvest limits are based on the previous year's crab and knot population estimates), the ARM is not designed to answer the question of how long it will take to achieve any particular HSC or red knot population size in Delaware Bay. The findings of Smith *et al.* (2013) have been incorporated into the Supplemental Document (Factor E—Reduce Food Availability—Horseshoe Crab Harvest—Adaptive Resource Management).

As explained above in *Our Response 46,* the ARM framework does not define a ''recovery'' population level for Delaware Bay HSCs. We do not assert that any particular HSC population level is necessary to have a beneficial impact on the red knot stopover population in Delaware Bay. Further, we do not have any information to indicate that the HSC population must reach carrying capacity—or must return to early 1990s levels, or increase by an order of magnitude—to support the full recovery of the Delaware Bay's red knot stopover population. Instead, we rely on the adaptive, scientific modeling of the ARM framework to determine the appropriate HSC harvest level necessary to maximize red knot population growth.

We disagree that the ARM framework values harvest over maximum HSC population growth. Under the ARM framework, utility is given to harvest (*i.e.,* harvest is ''valued,'' and, therefore, allowed) only when knot and crab populations are above a threshold. Although the simulations by Smith *et al.* (2013, p. 8) are not intended to predict actual timeframes for population

growth, they did show that the bait harvest levels allowed by the ARM did not slow red knot population growth relative to a complete moratorium (see *Our Response 121*). The simulations by Smith *et al.* (2013) suggest these species will take a long time to rebuild (although we cannot predict how long) due to their inherent biology (long time to maturity and low survival in early life stages), not due to the ARM utility values.

We agree that food supply for red knots in Delaware Bay remains a point of concern. As long as the ARM is in place and functioning as intended (see *Our Response 46* regarding new uncertainty about the future of the ARM), we anticipate future quotas will continue to be set at levels that ensure the bait harvest does not impede progress toward achieving maximum red knot population growth. However, even with highly successful harvest management under the ARM, the HSC population will continue to grow only to the extent that it remains limited by harvest; other factors affecting crab populations cannot be affected by management of the fishery (see *Our Response 46* and Supplemental Document section Factor E—Reduced Food Availability—Horseshoe Crab Harvest—Link A, Part 2). Our assessment of the best available data concludes that the volume of HSC eggs is currently sufficient to support the Delaware Bay's stopover population of red knots at its present size; but because of the uncertain trajectory of HSC population growth, it is not yet known if the egg resource will continue to adequately support red knot population growth over the next decade. This conclusion is unchanged from the proposed rule (78 FR 60024, p. 60063).

(49) Comment: One State and several other commenters stated that the ARM model is based on a number of assumptions that the ASMFC has not adequately tested, and includes a high degree of uncertainty in many of the data inputs. These include a lack of information on crab mortality to sufficiently inform the adaptive management process. These assumptions and sources of uncertainty render the model less risk-averse than the commenters find acceptable given the dependence of red knot recovery on a sufficient growth in Delaware Bay's spawning HSC population. Assumptions and uncertainties noted by the commenters include (a) the boundary (geographic extent) of the Delaware Bay Region (which, if incorrect, could allow for harvest of Delaware Bay crabs that would not be accounted for in the models); (b) illegal harvest; (c) crabs harvested and used at sea (not landed in any State); (d) crabs harvested in Federal waters; (e) bycatch; (f) underreporting, inaccurate or missing reporting of the sex of harvested crabs; and (g) mortality from the biomedical harvest.

Our Response: While we agree that there is good correlation between declines in red knots and declines in HSC abundance based on the best data available, we note that late arrivals of red knots in Delaware Bay (for unknown reasons) was a key synergistic factor accounting for the knot's decline in the 2000s (Baker *et al.* 2004, p. 878). We recognize the uncertainties and assumptions raised by the commenters. Such uncertainties were one reason the ARM was developed, as the purpose of adaptive management is to allow decisions under uncertainty. The uncertainties and assumptions, many of which are common to all managed fisheries, mentioned by the commenters were taken into account when the ARM was developed. We have reviewed the ARM framework at length and have spoken with the authors of the modeling. We conclude that the ARM is risk averse and deals explicitly with uncertainties, and that these uncertainties do not preclude effective decision-making, a conclusion supported by Smith *et al.* (2013).

Updates regarding our previous analysis of each uncertainty or assumption are presented below. While the ARM framework does not currently account for these factors explicitly, mortality from sources other than the bait harvest is potentially reflected in the survival parameters used in the ARM. Based on best available information, we conclude that explicit addition of these factors to the models would not change the harvest levels set by the ARM process. However, we have revised the Supplemental Document (Factor E—Reduced Food Availability—Horseshoe Crab Harvest—Adaptive Resource Management) to clarify that we expect the ARM framework will continue to adapt as substantive new information becomes available about important factors (other than the bait harvest) that may limit the continued growth of the Delaware Bay HSC population (see *Our Response 50*). In addition, we note that, since New Jersey has a full moratorium in place, the actual harvest of HSCs is less than that recommended by the ARM models.

(a) *Delaware Bay Region boundary.* In the proposed rule (78 FR 60024, p. 60070), we concluded that the ASMFC's current delineation of the Delaware Bay Region HSC population is based on best available information and is appropriate for use in the ARM modeling, but we acknowledged some uncertainty regarding the population structure and distribution of Delaware Bay HSCs. The commenters have not provided any new data to help resolve this uncertainty, or alternate boundaries for consideration. In documenting the technical underpinnings of the ARM, the ASMFC (2009b, p. 7) acknowledged that the proportion of Maryland and Virginia landings that come from Delaware Bay is currently unresolved, but stated that their approach to estimating this proportion, based on genetic analysis, was conservative. We have revised the Supplemental Document (Factor E—Food Availability—Horseshoe Crab Harvest—Adaptive Resource Management) to state that we anticipate the ARM process will adapt to substantive new information that reduces uncertainty about the Delaware Bay HSC population structure and geographic distribution. See *Our Response 114.*

(b) *Illegal harvest.* In the proposed rule (78 FR 60024, pp. 60066–60067), we evaluated available information regarding illegal harvest (poaching) of HSCs. We have revised the Supplemental Document (Factor E—Reduced Food Availability—Horseshoe Crab Harvest—Link A, Part 2) to update the poaching discussion with new findings from the ASMFC (2014a). Although notable poaching has been reported outside the Delaware Bay Region, we have no data to indicate that poaching in the Delaware Bay Region is occurring at levels that would have population-level effects. See also *Our Response 52* below.

(c) *Crabs used at sea.* In the proposed rule (78 FR 60024, p. 60067), we discussed the unregulated harvest of HSCs from Federal waters that are not landed in any State, but exchanged directly to a dependent fishery. We have updated the Supplemental Document (Factor E—Reduced Food Availability—Horseshoe Crab Harvest—Link A, Part 2) with new information from the ASMFC (2014a) regarding the possibility of such crabs, mainly crabs caught as bycatch, being harvested and used at sea. While there is no indication of the extent or amount of this activity or whether it exceeds the legal bycatch allowances that are set by each State, there is also no direct evidence of significant illegal activity and no enforcement cases (ASMFC 2014a, p. 2; M. Hawk pers. comm. May 27, 2014). We continue to conclude that the level of any such unreported and unregulated harvest (*i.e.,* that does not result in landings) is small and unlikely to have population-level effects (M. Hawk pers. comm.

April 29, 2013; G. Breese pers. comm. April 26, 2013).

(d) *Harvest from Federal waters.* Horseshoe crabs caught in Federal waters and landed in any State count toward the quotas established by the ASMFC. Horseshoe crabs caught in Federal waters and not landed in any State (used at sea) were discussed under item (c), above.

(e) *Bycatch.* Bycatch was discussed in the proposed rule (78 FR 60024, p. 60067). We have updated the Supplemental Document (Factor E—Reduced Food Availability—Horseshoe Crab Harvest—Link A, Part 2) with new information about bycatch as well as commercial discard. Horseshoe crabs caught as bycatch that are landed in any State count toward the quotas established by the ASMFC and may be kept only if the harvester holds a permit (M. Hawk pers. comm. May 27, 2014). Horseshoe crabs caught as bycatch that are not landed in any State (used at sea) were discussed under item (c), above.

(f) *Reporting problems.* We have no data that underreporting and inaccurate or missing reporting of the sex of harvested crabs is impeding the functioning of the ARM process.

(g) *Biomedical harvest.* See *Our Response 50* below regarding biomedical harvest of HSCs.

(50) Comment: One State and several other commenters expressed concern that the mortality of HSCs bled for biomedical use is not included in the ARM models, and that mortality rates have been documented well above those used by the ASMFC (*e.g.,* for assessing if the biomedical threshold has been surpassed). In addition, sublethal effects on bled crabs are not considered, and the biomedical harvest is expected to continue growing. Further, it is unclear if bled crabs captured in Delaware Bay are released near the location of their capture or nearer to the bleeding facilities, all of which are outside of the Delaware Bay region and would represent a loss of these crabs to the Delaware Bay population. One commenter noted that the ASMFC's Delaware Bay Ecosystem Technical Committee recommended in September 2013 that the ASMFC investigate options to incorporate biomedical data into future stock assessments, which has not been possible to date due to confidentiality issues.

Our Response: In the proposed rule (78 FR 60024, pp. 60064–60065), we noted that biomedical collection is currently not capped, but the ASMFC may consider implementing action to reduce mortality if estimated mortality exceeds a threshold of 57,500 crabs. This threshold has been exceeded several times, but thus far the ASMFC has opted only to issue voluntary ''best practices'' guidelines to the biomedical industry (ASMFC 2009a, p. 18). We also noted that, using a constant 15 percent mortality of bled crabs, the estimated contribution of biomedical collection to total (biomedical plus bait) mortality coastwide rose from about 6 percent in 2004 to about 11 percent in 2011. We have updated the Supplemental Document (Factor E—Reduced Food Availability—Horseshoe Crab Harvest—Link A, Part 2) with new information on sublethal effects from bleeding (Anderson *et al.* 2013), and to note that, despite a recommendation by the ASMFC's Horseshoe Crab Technical Committee to use of a range of 5 to 30 percent mortality (ASMFC 2013c, p. 8; ASMFC 2012a, p. 6), the ASMFC continues to assume a constant 15 percent mortality rate for bled crabs (M. Hawk pers. comm. May 28, 2014; ASMFC 2013b, p. 9; ASMFC 2009a, p. 3). Available data suggest the biomedical industry generally returns bled crabs to their waters of origin.

As shown in the Supplemental Document (table 23), the 2012 estimate of coastwide biomedical mortality (about 80,000 crabs) remains small compared to the coastwide bait harvest (about 730,000 crabs) (note that these figures are not specific to the Delaware Bay Region). Given the relative magnitude of biomedical mortality, we conclude that even considerable uncertainty around this estimate would not currently prevent the ARM framework from functioning as intended. However, we support the recommendation of the Technical Committee for ASMFC to investigate options to incorporate biomedical data into future stock assessments while avoiding breaches in confidentiality (ASMFC 2013e, p3). Further, we have revised the Supplemental Document (Factor E—Reduced Food Availability—Horseshoe Crab Harvest—Adaptive Resource Management) to clarify that we expect the ARM framework will continue to adapt as substantive new information becomes available about any important factors (other than the bait harvest) that may limit the continued growth of the Delaware Bay HSC population. Such factors are not currently well known, but could include demographic and ecological constraints on population growth, as well as sources of direct mortality that are not currently captured by the ARM models (*e.g.,* biomedical, poaching, bycatch). In particular, accounting for biomedical mortality may become important if the contribution of the biomedical harvest to total mortality continues to increase. It should be noted, however, that much of the biomedical harvest occurs outside the Delaware Bay Region and would, therefore, fall outside of the ARM framework.

(51) Comment: One State commented that removing Mispillion Harbor from the analysis of annual Delaware Bay egg density estimates has no biological or statistical justification and introduces bias. The Delaware Bay Ecosystem Technical Committee reviewed these data and determined that the high egg densities observed in Mispillion Harbor are not an outlier because they are consistently high from year to year and play a significant role for red knots in the Delaware Bay ecosystem. Furthermore, HSC egg densities in Delaware are increasing since 2005 (see Kalasz 2013 interim report).

Our Response: In the proposed rule (78 FR 60024, p. 60068), we stated that Mispillion Harbor consistently supports a substantial portion of the red knots in Delaware Bay, and that exclusion of Mispillion Harbor from statistical analyses is problematic. Thus, we discussed the statistical relationship between egg density and red knot weight gain both with and without Mispillion Harbor, as reported by Dey *et al.* (2013, pp. 18–19). We have added the findings of Kalasz (2014) to the Supplemental Document (Factor E—Reduced Food Availability—Horseshoe Crab Harvest—Link B, Part 2).

(52) Comment: One State commented that the proposed rule contains an unsubstantiated allegation of HSC poaching as a factor impacting HSC populations, which is unreasonable given that the current HSC population is likely no less than the estimated 20 million HSCs in the Delaware Bay in 2003, indications that the spawning HSC population in the Delaware Bay has been stable or increasing, the scrutiny and capabilities of State enforcement officials, the fact that HSC bait prices have increased tremendously in response to restrictions put in place (as evidenced by the import of Asian HSCs), and the difficulty in concealing large quantities of [illegal] HSCs. Conversely, another commenter stated that they have witnessed HSC harvest in a salt marsh on the North Shore of Long Island, New York, and found that oversight of harvest regulations is lacking. In addition, this commenter also believes that the harvest limit is too high.

Our Response: We disagree with this characterization of our conclusions in the proposed rule. In the proposed rule (78 FR 60024, p. 60066), we reported that the ASMFC's Delaware Bay

Ecosystem Technical Committee had speculated about possible factors that may explain the lack of recent HSC population growth in the Delaware Bay Region, but committee members did not reach consensus regarding which factors are more likely (ASMFC 2012c, p. 12; ASMFC 2012d, p. 2). The possibility of excessive documented and undocumented mortality was among these factors (ASMFC 2012d, p. 2). Therefore, we further investigated several possible sources of additional mortality outside the authorized bait harvest quotas, including biomedical mortality, poaching, bycatch, and unregulated harvest (*i.e.,* from Federal waters and not landed in any State) (see *Our Response 49*). Specific to poaching, we presented documented instances of enforcement actions in New Jersey and New York. We have updated the poaching discussion in the Supplemental Document (Factor E—Reduced Food Availability—Horseshoe Crab Harvest—Link A—Part 2) with new findings from the ASMFC (2014a), which further document notable levels of illegal harvest outside of Delaware Bay, but which have not changed our conclusion that minimal poaching (well below the levels that would cause population-level effects) has been observed in the Delaware Bay Region. Specific to oversight in New York, officials are aware of significant harvest pressure in the spring, and anticipate possible illegal activity by implementing significant spring enforcement details (ASMFC 2014a, p. 1). We agree that the best available estimate of the HSC population in Delaware Bay is about 20 million crabs and that spawning HSC abundance has been stable, though not increasing (see *Our Response* 109). We also agree that poaching is receiving appropriate scrutiny from enforcement officials (ASMFC 2014a). See *Our Responses 2* and *120* regarding the price of bait and the import of Asian HSCs.

(53) Comment: One commenter stated that dredging beginning in the 1960s has degraded HSC habitat.

Our Response: In the proposed rule (78 FR 60024, p. 60039), we addressed effects to HSC spawning habitat from shoreline stabilization including hard structures and beach nourishment, but not from dredging. We do not doubt that dredging has and continues to degrade HSC habitat in some locations. However, we do not address this issue in the Supplemental Document because we have no information that dredging is impacting HSC habitat in Delaware Bay, which is the only region in which red knots are highly reliant on HSC eggs as a food resource. That said, we have revised the Supplemental Document (Migration and Wintering Food) with new information that HSC eggs are eaten, and often preferred, by red knots along other parts of the U.S. Atlantic coast, and may be a locally important component of the knot's spring diet. Thus, we anticipate that the recovery planning process will include evaluating threats to the HSC egg supply in other areas outside Delaware Bay.

(54) Comment: One State commented that the recent reduction in food availability in Delaware Bay was identified as the most detailed and persuasive threat, but this threat affects only those birds that migrate along the Atlantic coast, and it may not affect all migrating birds equally. The birds wintering along the northern coast of South America or along the Florida peninsula should have a lesser need to gain as much weight because of their shorter migration and may be minimally affected by food reduction. Another commenter stated that the Tierra del Fuego wintering population, which relies most heavily on HSCs, has declined disproportionately.

Our Response: We agree that best available data suggest southern-wintering red knots (from Argentina and Chile) are more reliant on Delaware Bay than are northern-wintering birds (*e.g.,* from northern Brazil and the Southeast), as discussed in the proposed rule (Rufa Red Knot Ecology and Abundance, pp. 31–33). We have revised the Supplemental Document (Wintering and Migration Food—Possible Differential Reliance on Horseshoe Crab Eggs) to more clearly present these data, and to emphasize observed differences between red knots that winter in Argentina and Chile versus knots that winter farther north (Wintering—Northern Versus Southern Wintering Regions; Migration—Differences in Migration Strategy by Wintering Area). However, we conclude that the best available data are insufficient to evaluate effects of the HSC harvest on northern-wintering red knots over recent decades, and we cannot conclude they were ''minimally affected'' by food reduction in Delaware Bay. We presented information about the Tierra del Fuego wintering population decline in the proposed rule (Rufa Red Knot Ecology and Abundance pp. 39–45; 53) and have revised the Supplemental Document (Wintering—Northern Versus Southern Wintering Regions) to clarify and emphasize this point.

(55) Comment: One State commented that the 70 percent loss of HSC spawning habitat in Delaware Bay reported in the proposed rule due to Hurricane Sandy is only reflective of New Jersey and not, necessarily, Delaware. The State said it is also difficult to determine how the 70 percent loss was quantified or how much of any such loss can actually be attributed to that one event. Another commenter agreed with the estimate of a 70 percent decrease in HSC spawning from Hurricane Sandy and noted that, while the beach was restored in time for the red knot spring stopover because of successful fundraising efforts, a similar winter or early spring storm could result in beaches stripped of sand with no time or funds for restoration.

Our Response: As noted in the proposed rule, biologists found a 70 percent decrease in optimal HSC spawning habitat in New Jersey following Hurricane Sandy (Niles *et al.* 2012, p. 1), and beach nourishment is being pursued as a means of restoring this habitat (Niles *et al.* 2013a, entire Niles *et al.* 2013b, entire). We have revised the Supplemental Document (Factor A—Accelerating Sea Level Rise—United States—Northeast and Mid-Atlantic—Delaware Bay Horseshoe Crab Habitat) to clarify that the 70 percent loss refers to the New Jersey side of Delaware Bay only, and that this loss is relative to 2002 but was identified by Niles *et al.* (2012) to be mostly a result of Hurricane Sandy.

We agree that changes in storm patterns may be a threat to the red knot. While variation in weather is a natural occurrence and is normally not considered a threat to the survival of a species, persistent changes in the frequency, intensity, or timing of storms at key locations where red knots congregate (*e.g.,* key stopover areas) due to climate change can pose a threat. Storms impact migratory shorebirds like the red knot both directly and indirectly, including through changes in habitat suitability. Beach losses accumulate over time, mostly during storms, and even the long-term coastal response to sea level rise depends on the magnitudes and timing of stochastically unpredictable future storm events (Ashton *et al.* 2007, pp. 7, 9). Should storm patterns change, red knots in Delaware Bay would be more sensitive to the timing and location of coastal storms than to a change in overall frequency. Changes in the patterns of tropical or extra-tropical storms that increase the frequency or severity of these events in Delaware Bay during or just prior to May would likely have dramatic effects on red knots and their habitats (Kalasz 2008, p. 41) (*e.g.,* through direct mortality, delayed HSC spawning, delayed departure for the breeding grounds, and short-term habitat loss) (78 FR 60024, pp. 60028–

60029, 60032, 60034, 60037, 60073). This information is presented, unchanged and under the same headings, in the Supplemental Document.

(56) Comment: One State commented that the potential near-term threat posed by sea level rise is reduced by the fact that coastal habitats are likely to shift and re-form as sea level changes, except in those areas that are armored or constrained by coastal infrastructure (78 FR 60024, p. 60032).

Our Response: We agree. However, as noted in the proposed rule (78 FR 60024, p. 60035), if shorelines experience a decades-long period of high instability and landward migration, the formation rate of new beach habitats may be slower than the rate at which existing intertidal habitats are lost. In addition, low-lying and narrow islands may disintegrate rather than migrate, representing a net loss of red knot habitat. Furthermore, the extent to which habitat migration is constrained by human activity is extensive—about 40 percent of the U.S. coastline within the range of the red knot is already developed (78 FR 60024, p. 60042). These conclusions are supported by new studies evaluating the vulnerability of shorebirds (including *Calidris canutus*) to sea level rise (Galbraith *et al.* 2014, p. 7; Iwamura *et al.* 2013, p. 6; National Wildlife Foundation 2013, p. 28; Whitman *et al.* 2013, pp. 2, 19, 64); we have added these updates to the Supplemental Document (Factor A—Sea Level Rise).

(57) Comment: One State commented that, within the listing proposal, all of the potential impacts that are predicted to occur as a result of sea level rise are based upon geomorphic modeling that assumes a 1-meter (m) increase in sea level. At the current rate of sea level rise, which ranges from 2.5 to 3.5 millimeters (mm)/year (78 FR 60024, pg. 60030), the 1-m threshold will not be reached for another 140 to 300 years. Even the low end of this range is well beyond the temporal scope that should be applied to a listing decision.

Our Response: We disagree with the commenter's projected rate of sea level rise, and conclude that appreciable effects to red knot habitats from accelerating rates of rising sea levels are likely to begin over the next few decades, not centuries (Iwamura *et al.* 2013, p. 6; Miller *et al.* 2013, pp. 3, 14; Vargas *et al.* 2013, pp. 22, 80; Galbraith *et al.* 2002, pp. 177–178). In fact, erosion has already led to loss of roost habitat in Delaware Bay (Niles *et al.* 2008, p. 97) and we expect ongoing erosion due to sea level rise to accelerate. As discussed in the proposed rule (78 FR 60024, p. 60029), and updated in the Supplemental Document (Factor A—Sea Level Rise—Rates), the rate of sea level rise has accelerated and is ''very likely'' to increase further (IPCC 2013a, p. 25). Although estimated future rates remain rather uncertain, some research suggests that sea levels could potentially rise another 2.5 to 6.5 ft (0.8 to 2 m) by 2100. The IPCC (2013a, p. 26) recently concluded there is ''low confidence'' in sea level rise projections over 3.3 ft (1 m) by 2100. However, for the most recent National Climate Assessment (Melillo *et al.* 2014), Parris *et al.* (2012, p. 2) evaluated various sea level rise scenarios and have ''very high confidence'' that global mean sea level rise will be between 0.7 and 6.6 ft (0.2 and 2.0 m) by 2100, which is generally the range we considered in this listing determination.

(58) Comment: Several States noted the beneficial effects of beach nourishment in maintaining habitat for red knots and other shorebirds. These States urged the Service to use caution when discussing the detrimental impacts of hard structures and beach nourishment as restoration or coastal protection strategies. These States commented that experience clearly demonstrates the value of such techniques to red knot beach habitats in Louisiana, and that beach nourishment is the best and only method to maintain and prevent the loss of suitable HSC spawning habitat due to erosion and sea level rise in a hydrologic system with limited sediment input, such as Delaware Bay. Likewise, one commenter noted that not all portions of the coast are equally impacted by erosion (*i.e.,* from sea level rise); thus, restrictions stemming from listing should be allowed to vary geographically and should leave open management options for habitat and beach restoration projects.

Our Response: We make a distinction between beach nourishment and beach stabilization structures (*i.e.,* hardening structures). With few exceptions, we have concluded that hard structures are detrimental to red knot habitat (Winn *et al.* 2013, p. 22). In contrast, beach nourishment may be either detrimental or beneficial depending on the circumstances (Nordstrom and Mauriello 2001, entire; Defeo *et al.* 2009, p. 4; Rice 2009, entire; Peterson *et al.* 2006, entire; Peterson and Bishop 2005, entire; Greene 2002, p. 5). The effects of beach nourishment are expected typically to be short in duration. Human attempts to harden the shoreline are considered generally a threat to the red knot, because hardening curtails the natural coastal processes that create and maintain the most suitable red knot habitats. Notwithstanding our overall conclusion on stabilization, we noted in the proposed rule (78 FR 60024, p. 60037) that, in a few isolated locations, hard structures may enhance red knot habitat, or may provide artificial habitat. We also noted that, where shorebird habitat has been severely reduced or eliminated by hard stabilization structures, beach nourishment may be the only means available to replace any intertidal habitat for as long as the hard structures are maintained (78 FR 60024, p. 60037). Further, wholesale reorganizations of barrier systems and the loss of some low-lying islands may occur under scenarios of rapid sea level rise, and shorelines may experience a decades-long period of high instability during which the formation rate of new red knot habitats may be slower than the loss of existing habitats, as indicated in the proposed rule (78 FR 60024, pp. 60032, 60035).

We agree with the commenters that, under such circumstances, human intervention in coastal processes may be the only means of maintaining shorebird habitat. Due to local and regional factors, Louisiana is already experiencing extreme rates of land loss and barrier island disintegration; we acknowledge that Louisiana's stabilization efforts may be maintaining habitat in areas where it would otherwise be lost. We likewise acknowledge the benefits of beach nourishment to red knot foraging habitat in Delaware Bay. Thus, we have revised the Supplemental Document (Factor A—U.S. Shoreline Stabilization and Coastal Development) to further note that both hard and soft (beach nourishment) stabilization efforts may also benefit red knots under circumstances of rapid erosion and land loss due to accelerating rates of sea level rise, locally or regionally exacerbated by limited sediment inputs. Coastal management projects generally involve Federal funding or authorization and may, therefore, be reviewed on a case-by-case basis under section 7 of the Act, thus ensuring flexibility for geographic differences.

(59) Comment: One State and several other commenters stated that the loss or impairment of other migration staging areas (outside of Delaware Bay) is of great importance to the red knot especially at low population levels. Geolocator data show that red knots spend considerable portions of their life cycle along the Atlantic coast, and that their habitat use and needs during fall migration demand greater attention. July and August are the months when the

greatest numbers of red knots occur along the Atlantic coast. This period is also the time when beaches and other coastal areas are under the most pressure from human activities, thus creating the greatest potential for disturbance to migrating red knots. Wintering areas used by red knots, particularly in the Southeast, also are subject to intense and persistent recreational use.

Our Response: We agree. In the proposed rule and in the Supplemental Document, we present a comprehensive analysis of threats to the red knot from habitat loss (Factor A) and disturbance (Factor E) throughout its range. Conservation actions to abate these threats will be evaluated during the recovery planning process.

(60) Comment: One State and several other commenters noted that red knots are part of one of the largest congregations of migrating shorebirds in North America, a congregation that converges along the shores of the Delaware Bay and contributes significantly to the local economy (*e.g.,* through ecotourism). The threatened status of the red knot is substantiated by the similar decline in a long list of other Arctic-nesting shorebirds, including other species that use Delaware Bay as a primary staging area during spring migration and rely on HSC eggs during the spring staging period. Further, listing the red knot and creating the basis for recovery will improve the situation for all of these shorebirds. Likewise, some commenters concluded that listing the red knot will benefit other shorebirds that share its wintering habitat in the United States. Conversely, some commenters suggested that listing the red knot may not be necessary because this species already receives incidental protections due to its geographic overlap with other protected species and protected areas.

Our Response: The Service recognizes the importance of Delaware Bay to other shorebird species besides the red knot, and the importance of the bay's ecosystem to local communities. We also recognize that listing the red knot may bring incidental conservation benefits to other species that share its habitats in Delaware Bay and rangewide. However, the Act requires that we use only the best available scientific and commercial data to evaluate whether a species meets the definition of a threatened or endangered species based on the five ''listing'' factors (section 4(a)(1)(b)). Thus, in making a listing determination, we may not consider the implications of possible listing for other species, the broader ecosystem, or local communities. (Once a species is listed, however, conservation of its supporting ecosystems is a principal focus of our recovery planning, and a central purpose of the Act.) We evaluated the conservation efforts that are already benefitting the red knot, including those that accrue from its overlap with other listed species and its occurrence in some protected areas. Notwithstanding several important ongoing conservation efforts, we conclude that the rufa red knot meets the definition of a threatened species, based on best available data. See *Our Response 2* regarding other implications of listing that we may not consider in evaluating whether a species meets the definition of a threatened or endangered species under the Act.

(61) Comment: Juvenile red knot survival and recruitment into the adult population may currently be the most significant factor facing the species. Over the past decade, juvenile survival has been low and recruitment into the adult population has been limited. Little is known about where juveniles spend their first 2 years or their survival rate. Given the suggestion that their range is in the Caribbean or northern South America, there is potential that hunting could impact survival, as juveniles would be more vulnerable to hunting pressure.

Our Response: We agree it is possible that low juvenile survival and recruitment may be limiting population growth, and that juvenile survival may be impacted by hunting (*e.g.,* if juveniles spend a large percent of their annual life cycle in regions where shorebirds are hunted, if juveniles are naïve to hunting, or both). Because we find these theories plausible and worthy of further investigation, we have mentioned them in the Supplemental Document (Longevity and Survival; Factor B—Hunting—Caribbean and South America). However, we note that these theories currently lack supporting documentation. We have also updated the Supplemental Document (Breeding—Nonbreeding Birds; Wintering—Juveniles; Migration) with the first two available geolocator results from juvenile birds showing where they spent their first years.

(62) Comment: Several States and other commenters stated that wind energy development was an unlikely threat to the red knot in the interior United States because research by Newstead *et al.* (2013) indicates that midcontinental migrating birds travel at a rate of approximately 58 km per hour. It is unlikely that birds could migrate this rapidly by flying at low altitude. Most likely, these birds are migrating at a height of several thousand feet and are passing well above all wind turbines and communications towers. Conversely, one commenter rebutted that the referenced speed is an average of the minimum flight speeds of those individuals. In reality, birds experience both headwinds and favorable tailwinds over the duration of a 2- or 3-day nonstop flight, which would effectively reduce or increase their speed, respectively. It is also likely that the birds would increase or decrease their altitude in response to those conditions, so it is not appropriate to infer that all flights follow the same trajectory or altitude. Further, red knots and other shorebirds are capable of considerable speeds in still air, approaching or exceeding 58 km per hour. Thus, red knots would not necessarily need the wind assistance found at high altitudes to achieve the estimated (average, minimum) flight speed.

Our Response: As discussed in the proposed rule (78 FR 60024, p. 60090), some experts estimate the normal cruising altitude of red knots during migration to be in the range of 3,281 to 9,843 ft (1,000 to 3,000 m), well above the estimated height of even a 10-MW turbine (681 ft; 207.5 m). However, much lower flight altitudes may be expected when red knots encounter bad weather or high winds, on ascent or descent from long-distance flights, during short-distance flights if they are blown off course, during short coastal migration flights, or during daily commuting flights (*e.g.,* between foraging and roosting habitats) (Burger *et al.* 2012c, pp. 375–376; Burger *et al.* 2011, p. 346). Supporting evidence for these expert opinions comes from other *Calidris canutus* subspecies and other shorebirds in Europe (see Supplemental Document section Factor E—Wind Energy Development—Offshore). Although the aforementioned sources constitute best available information, we lack any direct empirical data to verify the typical migration altitude of rufa red knots, or the degree to which they adjust their migration altitudes in response to weather or other factors. We agree that, typically, red knots on long-distance, nonstop flights likely migrate at high altitudes of 3,281 feet (1,000 m) or more (Burger *et al.* 2011, p. 346). However, we disagree with the interpretation that the minimum flight speed calculated by Newstead *et al.* (2013) indirectly indicates the migration altitude of red knots along the Central Flyway; thus, we have not incorporated this interpretation into the Supplemental Document. (Also see *Our Response 22.*)

(63) Comment: One State commented that the proposed rule failed to include the dwarf surf clam (*Mulinia lateralis*)

as an important food resource to fall migrating red knots in Georgia. This State noted densities of dwarf surf clam vary widely from year to year, appearing to drive the number of red knots using certain areas, and they are concerned that a number of predicted changes associated with global climate change (ocean acidification and warming) may negatively affect this important prey item.

Our Response: In the proposed rule (Rufa Red Knot Ecology and Abundance, pp. 26–27), we noted that the spatial distribution of red knots has been correlated with prey availability in Georgia, and that the dwarf surf clam is a prey species in Georgia during winter. We have revised the Supplemental Document (Migration and Wintering Food) to indicate that the dwarf surf clam is also a primary prey species for knots during fall. We have also revised the Supplemental Document (Factor E—Reduced Food Availability—Ocean Acidification; Temperature Changes) to include new information provided by the commenter regarding the likely impacts of climate change on the dwarf surf clam in Georgia.

(64) Comment: Several States and other commenters provided new information regarding habitat and prey in inland areas (*e.g.,* some knots may use saline lakes in southern Canada, such as Reed, Chaplin, and Quill Lakes, that are known to support large, mixed-species shorebird concentrations due to abundant invertebrate resources), while other commenters contend that red knots may not use inland stopover sites during migration because of the unpredictable availability of appropriate prey. Within the interior portion of the Central Flyway, water levels fluctuate dramatically; therefore, few sites have reliable gastropod resources, and none support freshwater mussels at a depth that would be available to red knots.

Our Response: We agree that new information available since the proposed rule was published suggests that some red knots likely use inland saline lakes as stopover habitat in the Northern Great Plains. We have no information to indicate whether red knots may also use inland freshwater habitats during migration, but some of the new information discussed under *Our Response 29* suggests that certain freshwater areas may warrant further study as potential stopover habitats. We have added this new information to the Supplemental Document (Migration—Midcontinent; Migration and Wintering Habitat—Inland). We also agree that inland prey resources may be unpredictable. Newstead *et al.* (2013, p. 57) supported the idea that inland prey resources may be unpredictable, but showed inland stopovers are used by red knots in some years. At least on smaller geographic scales (*e.g.,* stopover areas in Argentina, Georgia, South Carolina, Virginia, the Atlantic coast of New Jersey, and Delaware Bay), knot distribution has been shown to follow areas of high prey availability, suggesting some plasticity in migration strategy as prey resources vary in time and space (Musmeci *et al.* 2011). Likewise, Newstead *et al.* (2013, pp. 57–58) have suggested that knot use of the Northern Great Plains may vary from year to year based on water levels. Geolocator data indicate the midcontinental flyway is consistently used by some birds, but the stopovers within this migratory route may vary depending on environmental conditions. These conclusions continue to be borne out by many more geolocator tracks that have yet to be published (D. Newstead pers. comm. May 8, 2014).

(65) Comment: Several States and other commenters suggested the Service should conduct a thorough literature review of all available resources to determine where the red knot occurs regularly because the species' conservation and recovery will be most effective if they remain focused on the important coastal habitats that are used by all individuals.

Our Response: We agree with this conclusion, but assert that we have already conducted a thorough review of the literature available. Identifying and protecting the network of important red knot sites is work that has been ongoing by an international community of shorebird researchers and conservationists since the late 1970s and continues today. The results of this extensive work were reviewed in depth for the proposed rule and the Supplemental Document, and will be further utilized and built upon during recovery planning.

Public Comments

(66) Comment: A commenter stated that the proposed rule does not comply with applicable law because the ''foreseeable future'' used by the Service in this instance is not expressly identified or otherwise explained. Upon reconsideration, should the Service decide to proceed with a threatened listing, it must issue a new proposed rule that clearly identifies the applicable ''foreseeable future,'' explains the Service's bases for identifying that foreseeable future, and describes how the Service's interpretation is consistent with the language and intent of the Act. The best available scientific data and information, previous findings by the Service, and applicable case law all dictate that a foreseeable future premised upon climate change impacts does not extend past mid-century.

Our Response: The Act does not define the term ''foreseeable future,'' and the Act and its implementing regulations and policies do not require the Service to quantify the time period of foreseeable future. For each threat evaluated in the proposed rule and in the Supplemental Document, we have specified, when possible, the time horizon over which we conclude likely effects to the red knot can be reasonably foreseen.

(67) Comment: A commenter stated that if the Service proceeds with a determination to list the rufa red knot as threatened, the Service must issue a special rule pursuant to section 4(d) of the Act that exempts from the section 9 take prohibition all lawful activities that have not been found to directly and adversely impact the rufa red knot species. To avoid unnecessary and unintended burdens, or the misuse of the Act, the Service should propose a special 4(d) rule. Further, the Service's rationale in support of the polar bear 4(d) rule applies equally to the red knot.

Our Response: The Act does not specify particular prohibitions for threatened species. Instead, under section 4(d) of the Act, the Secretary of the Interior was given the discretion to issue such regulations as she deems necessary and advisable to provide for the conservation of such species. Exercising this discretion, the Service has developed general prohibitions (50 CFR 17.31) and exceptions to those prohibitions (50 CFR 17.32) under the Act that apply to most threatened species. At this time, we have no information to suggest that the take prohibitions are not ''necessary and advisable to provide for the conservation'' of the rufa red knot to justify a species-specific 4(d) rule that exempts certain activities from the take prohibition. However, we will reevaluate this decision in the future if new information becomes available that indicates a change in the 4(d) regulations may be necessary and advisable for the red knot's conservation.

(68) Comment: One commenter requested clarification regarding how the public comments are evaluated by the Service, and how different comments are weighed, so that the analysis and decision-making are based on the input received.

Our Response: We have reviewed all the public comments for substantive new information and for any

substantiated alternative interpretations of information we previously considered. To the extent that such new information and new interpretations represent best available data, we have incorporated them into the Supplemental Document and evaluated them in light of our threats assessment using the five listing factors set forth in section 4 of the Act. Oral testimony on a proposed rulemaking given at a public hearing is given the same weight as written comments received during the open public comment period.

(69) Comment: One commenter stated that the Service failed to conduct, and provide for comment on, analysis required by the Act in its proposal to list the rufa red knot.

Our Response: We disagree. As stated above, the proposed rule to list the red knot as threatened under the Act was published in the **Federal Register** on September 30, 2013 (78 FR 60024) and made available for public comment for a total of 133 days (78 FR 60024; 79 FR 18869; 79 FR 27548). In addition, three separate public hearings were held on the proposal, which exceeded the requirement to hold one hearing if requested. As explained above under numerous responses to comments, we appropriately evaluated whether the red knot meets the definition of a threatened or endangered species under sections 4(a) and 4(b) of the Act.

(70) Comment: Several commenters expressed concern about how we conduct peer review or use peer-reviewed documents, stating that scientific peer review should happen before proposing a species for listing, not during the public comment period, and that the Service should include the peer review results next to any cited information that it disseminates to the public in hearings, documents, and the **Federal Register**. Likewise, one commenter stated that designation of a species as threatened must be based on unquestionable scientific evidence gathered and analyzed before the designation, not after.

Our Response: As detailed in *Our Response 71* below, we use several sources of data in our listing determinations, including articles from peer-reviewed journals. In addition, the Service's 1994 Interagency Cooperative Policy for Peer Review in Endangered Species Act Activities (59 FR 34270) specifies that we will ''(a) Solicit the expert opinions of three appropriate and independent specialists regarding the pertinent scientific or commercial data and assumptions . . . (b) Summarize in the final decision document (rule or notice of withdrawal) the opinions of all independent peer reviewers received.'' We have complied with the Policy by soliciting peer review during the open public comment period so that any peer review comments received would be transparently available to the public; peer reviewer comments were posted in the proposed rule's docket at *www.regulations.gov* along with all other received comments. In addition, we made the list of references reviewed and cited for the proposed rule available via the proposed rule's docket at *www.regulations.gov,* properly identified those citations in the proposed rule, and made it clear in the proposed rule (78 FR 60024, p. 60025) that these references, along with other information in the decision record, were available for public inspection by appointment at the Service's New Jersey Field Office. Information about the proposed rule summarized in presentations at the public hearings may not have explicitly identified the citations due to size limitations on the PowerPoint© slides, but hearing participants could obtain this information by reading the proposed rule and supporting documents, visiting *www.regulations.gov,* or making an appointment with the New Jersey Field Office. As required by the Act, we relied on best available data in determining that the red knot meets the definition of a threatened species in both the proposed and final rules. We disagree that listing requires ''unquestionable scientific evidence.'' Rather, as discussed in *Our Response 27,* the Service is required to rely solely upon the ''best available'' science, even if that science is uncertain. New information that becomes available after listing will be considered during recovery planning and implementation, and in the course of status reviews we conduct every 5 years to determine if the species continues to meet the definition of a threatened or endangered species.

(71) Comment: One commenter suggested that the quality of the data in the proposed rule was undermined by the number of personal communications and unpublished sources cited in the document. The reliance on unpublished data and personal communications suggest a link to falsified data. Likewise, one commenter stated that the information contained in the proposal and in supporting documents does not meet the scientific standards, and another commenter found that the best available science is poor and incomplete science at best.

Our Response: We disagree. The Service is required to make listing determinations based on the best scientific and commercial data available. Sources of data include peer-reviewed journal articles; field notes and other unpublished data; and personal communications from species, habitat, and policy experts. We analyze all available sources of data and use our best professional judgment to determine their credibility, in accordance with applicable data standards (Interagency Policy on Information Standards Under the Endangered Species Act (59 FR 34271); Information Quality Act (P.L. 106–554, section 515); Information Quality Guidelines and Peer Review (USFWS 2012f, entire)). As required by the Interagency Policy on Information Standards Under the Endangered Species Act, all sources we reviewed have been retained as part of the decision record, and all sources we relied upon are listed in the Literature Cited section of the Supplemental Document and were available for public review. We are not aware of any documented instances of falsification or any other scientifically unethical practices associated with any of the data we cited in the proposed rule, this final rule, or the Supplemental Document. As discussed in *Our Response 27,* the ''best available science'' requirement does not equate to the best possible science. Although we acknowledge certain data gaps (78 FR 60024–60025) and uncertainties, some of which are inherent in all natural systems and all evaluations of future conditions, we conclude that overall the best available data are sufficient to document several population-level threats to the red knot, as well as its reduced population size relative to the early 1980s, and thus conclude that the red knot meets the definition of a threatened species.

(72) Comment: One commenter suggested that some red knot researchers inappropriately published the same data in two or more publications; designed research to give inaccurate results; and excluded, altered, or manipulated data. Further, vague or ambiguous language in the red knot data may rise to falsification, fabrication, and scientific fraud. This commenter states that the inclusion of flawed data in the 2007 red knot status assessment prepared for and disseminated by the Service violates the Service's information quality standards; the Service was informed during peer review of the 2007 status review that several of the citations were in error, including inappropriate interpretation of data as evidence of red knot declines.

Our Response: We disagree. We are not aware of any documented instances of falsification or any other scientifically unethical practices associated with any of the data we cited in the proposed rule, this final rule, or the Supplemental

Document. See *Our Response 71* above on our data standards. The 2007 document ''Status Review of the Red Knot (*Calidris canutus rufa*) in the Western Hemisphere'' was prepared for the Service by a group of independent red knot experts and made available on our Web site. An updated version was published independent of the Service in 2008 (Niles *et al.* 2008, entire). While some of the information in Niles *et al.* (2008) has been subsequently updated with new information and improved insights, we have used appropriate information from Niles *et al.* (2008) in our listing determination whenever we consider it reliable, current, and best available.

(73) Comment: One commenter stated that the Service has red knot bird banding data from North and South America and will not release these data, citing privilege to authors.

Our Response: This comment is incorrect. Most data regarding the marking and resighting of red knots are housed and maintained by BandedBirds.org, which is affiliated with the New Jersey Audubon Society. Although the Service has provided support to BandedBirds.org, we do not operate this database, nor set the policies regarding the dissemination of the data it contains. Throughout the proposed rule and the Supplemental Document, we present summary information, analysis, and conclusions drawn from BandedBirds.org data. This is possible because we obtained limited excerpts from the database through a data sharing agreement with BandedBirds.org, and we coordinated with the database manager to ensure that we obtained all necessary permissions from the individual contributors of the data, as per the policies of BandedBirds.org. These excerpts have been and remain available to the public by appointment at the Service's New Jersey Field Office. Certain red knot resightings data are also available to the public directly at BandedBirds.org, and access to additional data can be requested from the database administrator.

(74) Comment: One commenter noted that there are six subspecies of *Calidris canutus* and that the Service needs to know more about the other five subspecies to make a decision about *C.c. rufa.* This commenter contends that all the subspecies migrate to the same area, albeit by different routes, and breed in the same area. However, no one knows for certain if they interbreed or not.

Our Response: We disagree with this assessment. In the proposed rule (Rufa Red Knot Ecology and Abundance, pp. 4–7, 9), we presented best available data that the three recognized North American subspecies do not interbreed. We have updated the Supplemental Document (Subspecies Nonbreeding Distributions) with new information regarding the nonbreeding ranges of *Calidris canutus rufa* and *C.c. roselaari.* There are a few areas of known overlap and additional regions of potential overlap between the nonbreeding distributions of these two subspecies. However, all newly available information supports our previous conclusions that the breeding areas of these two subspecies are distinct, with *C.c. roselaari* breeding in Alaska and eastern Russia, and *C.c. canutus* breeding in the central Canadian Arctic. Although *C.c. islandica* breeds in Canada just north of *C.c. rufa,* the *islandica* subspecies migrates and winters in Europe and does not occur in the United States. The other three subspecies do not occur in North America.

(75) Comment: One commenter stated that the International Union for Conservation of Nature (IUCN) Red List of Threatened Species, cited by the respected Cornell University Lab of Ornithology, lists the conservation status of the red knot as one of ''Least Concern'' and, therefore, concludes the science does not support the Service's proposal.

Our Response: Under section 4 of the Act, a species shall be listed if it meets the definition of a threatened or endangered species because of any of the five factors, considering solely best available scientific and commercial data. We may not adopt the conservation classification criteria of other agencies or organizations, such as the IUCN. However, we do evaluate and consider the underlying data other agencies or organizations have relied upon in making their own conservation classifications. Thus, we have reviewed the IUCN Red List (BirdLife International 2012), and found that the data presented by this source are for the entire global population (all six subspecies) of *Calidris canutus,* and are not specific to the rufa red knot, and are thus not relevant to this listing determination for the *rufa* subspecies. However, based on this review of the IUCN's underlying data sources, we have made a minor revision to the Supplemental Document, specifically, the addition of a new reference (Goldfeder and Blanco *in* Boere *et al.* (2006, p. 193)), which supports several of the threats that were already detailed in the proposed rule.

(76) Comment: One commenter stated that many threats to red knots are pervasive across the Gulf coast. For example, habitat loss is occurring across the Gulf Coast (from alteration of hydrology to development and from sea level rise to mismanagement of the Mississippi River), and disturbance of migrating and wintering birds is common.

Our Response: We agree that these and other threats are likely contributing to habitat loss, anthropogenic mortality, or both, along the Gulf coast, and thus contribute to the red knot's threatened status, particularly considering the cumulative effects of these and other threats rangewide.

(77) Comment: Several commenters expressed concern over the apparent contradiction between the Service justifying a threatened status for red knot while acknowledging difficulty in estimating the total population of red knots and recognizing that knot numbers have been stable in recent years.

Our Response: First, we disagree that there is a contradiction. While a precise estimate of a species population is an ideal piece of information to have, it is not a required piece of information for a listing determination. Under section 4 of the Act, a species shall be listed if it meets the definition of a threatened or endangered species because of any (one or more) of the five factors (threats), considering solely best available scientific and commercial data. Although many species proposed for listing have undergone, or are undergoing, a population decline, declining numbers are not required for listing if a species is facing sufficient threats, now or in the foreseeable future, to meet the definition of a threatened or endangered species. Based on our analysis of the five factors, we conclude the red knot meets the definition of a threatened species, particularly considering the cumulative effects of ongoing and emerging threats, and considering that several populations of red knots have already undergone considerable declines and remain at low levels. Second, although we have concluded that no current, reliable, rangewide population estimate is available, we disagree that no reliable population statistics are available. We have evaluated the best available population data, consisting of survey data for specific regions (Rufa Red Knot Ecology and Abundance, pp. 38–52; Population Surveys and Estimates in the Supplemental Document); see *Our Responses 37, 38,* and *44* for additional information.

(78) Comment: One commenter stated that the threat identified by the Service as driving the recent population decline has been addressed by management of

the HSC fishery. Therefore, the red knot may already be on a course to recovery without listing.

Our Response: We disagree with this conclusion. Although the threat from HSC harvest is adequately managed under the ARM and red knot populations have stabilized, knot numbers remain at low levels. We continue to conclude that reduced food availability at the Delaware Bay stopover site due to commercial harvest of the HSC—combined with late arrival of birds in Delaware Bay for unknown reasons—were the primary causal factors in the decline of rufa red knot populations in the 2000s (78 FR 60024, pp. 60063, 60076). The threat of late arrivals has not been abated, and further asynchronies are likely in the future due to climate change. In addition, we conclude that a number of other threats are likely contributing to habitat loss, anthropogenic mortality, or both, and thus contribute to the red knot's threatened status, particularly considering the cumulative effects of these threats, and that several populations of this species have already undergone considerable declines. (Also see *Our Response 46* regarding new uncertainty about the future of the ARM.)

(79) Comment: Several commenters stated that there are insufficient data to draw credible conclusions about the possible adaptation and recovery of this species. One commenter stated that the species having existed for at least hundreds of years is evidence that it has adapted and survived many previous cycles of natural change without human intervention. Likewise, another commenter stated that, in the millions of years red knots have been in existence, extreme variance in predation, climate, food sources, and other factors have surely occurred, yet, the birds have survived and thrived at times.

Our Response: We disagree that the red knot's ability to survive past cycles of natural change—or even past anthropogenic threats like hunting—are evidence that its adaptive capacity is adequate to survive the threats it currently faces. First, population declines in the 2000s demonstrate the red knot's vulnerability to inadequate food resources and asynchronies. Second, the nature and extent of current threats are unprecedented, as are the scope and rates of some changes that are likely to occur over coming decades. For example, the extent of coastal development and shoreline stabilization has likely never been greater, rates of sea level rise continue to accelerate, and arctic ecosystems are projected to change more in the next 100 years than they did over the last 6,000 years, which is longer than the rufa red knot is thought to have existed as a subspecies. We also disagree that the rufa red knot has been in existence for millions of years. As discussed in the proposed rule (Rufa Red Knot Ecology and Abundance, p. 4), the rufa red knot is thought to have diverged from other subspecies within the past 1,000 to 5,500 years. However, we agree that information is quite limited regarding the adaptive capacity of the rufa red knot. Where we have such information, we stated it in the proposed rule (78 FR 60024, pp. 60028, 60035, 60047–60049, 60054, 60057, 60061, 60071, 60072, 60074, 60075, 60093, 60095).

(80) Comment: One commenter stated that there is no upward trend in rufa red knot populations as measured by any consistently applied methodology.

Our Response: As discussed in the proposed rule (Rufa Red Knot Ecology and Abundance, pp. 53–54), we generally concur with this conclusion. One shorter-term data set (2007 to 2013) based on ground counts in Virginia did show an upward trend through 2012 but was down sharply in 2013, and a 2013 count from Brazil was markedly higher but this was likely due, at least in part, to favorable tidal conditions during the survey. However, two data sets associated with high confidence (Tierra del Fuego, Delaware Bay) show stabilization at low levels in recent years following sharp declines in the 2000s. Two other data sets (South American and Virginia spring stopovers) suggest declines in the 2000s relative to the 1990s. All other available data sets are insufficient for trend analysis. Our conclusions regarding trends in available population data are presented, with only minor updates, in the Supplemental Document (Summary—Population Surveys and Estimates).

(81) Comment: One commenter stated that the apparent red knot decline is based on the inconsistent methodologies, geographic areas, dates, and times of day, and compares multiple years' estimates against a single day. Further, total rangewide population estimates reported by some authors in certain years (*e.g.,* 2004, 2005) have been lower than counts at individual migration stopovers. Likewise, one commenter stated that data are insufficient to draw credible conclusions about the decline of this species.

Our Response: We disagree. We did not rely upon or cite the total rangewide population estimates mentioned by the commenter. In the proposed rule (Rufa Red Knot Ecology and Abundance, p. 53), we concluded that substantial declines occurred in two key red knot areas in the 2000s: The Patagonia and Tierra del Fuego wintering area and the Delaware Bay stopover area. We associated these trends with higher confidence levels based on consistency of methods, coverage, and observers (Rufa Red Knot Ecology and Abundance, pp. 39, 48).

(82) Comment: Several commenters expressed concern with the Service's apparent reliance on eBird data because it is citizen science and not considered scientifically rigorous, is skewed towards recreational birders and easily accessible locations, and is not representative of all the places, known or unknown, red knots utilize. The red knot population does not breed in colonies, which makes gathering credible population data beyond the reach of recreational birders. There are certain areas where red knot counts are made, mostly where birdwatchers are. Many more red knots may be utilizing unknown habitats and thus may be missed by surveys.

Our Response: First, we disagree that citizen science cannot be scientifically rigorous. Specific to eBird, we have reviewed the quality control protocols, which include vetting to minimize the risk of mistaken bird identification. Second, we conclude that, for some parts of the red knot's range (*e.g.,* interior States) during some seasons (*e.g.,* migration), eBird data represent the best available information. However, we agree that eBird data include reports from recreational birdwatchers, which are likely skewed toward those times and places that birdwatchers are active. The data are also temporally skewed, with far more recent than historical records, likely due to the growing access and popularity of recording observations electronically. For these reasons, we have not interpreted eBird records as a complete geographic representation of the range, nor have we relied upon these data for trend analysis. We did consider eBird, along with other data, for certain purposes relevant to listing, such as documentation or seasonality of occurrence in a particular area. We note that eBird records for *Calidris canutus* do not distinguish among subspecies; see *Our Response 35* and the Supplemental Document (Subspecies Nonbreeding Distribution) regarding how we have delineated the nonbreeding ranges of *C.c. rufa* versus *C.c. roselaari* based on best available data.

Third, we have relied on numerous data sets for our analysis of population trends (see Population Surveys and

Estimates in the Supplemental Document). Long-term professional (as opposed to volunteer) surveys have been conducted in several key areas because these areas are known to support important concentrations of red knots and other shorebirds, not based on convenient locations. Sharp and protracted declines in two of these areas (Tierra del Fuego and Delaware Bay) in the 2000s were an important consideration in our listing determination, although declining numbers (rangewide or in portions of the range) are not necessary for listing if a species is facing population-level threats (see *Our Responses 27* and *77*). We agree that the vast and remote breeding range of the rufa red knot, along with its solitary nesting habits, largely preclude any comprehensive surveys on the breeding grounds, either professional or volunteer. Nonetheless, we conclude that credible population data can and are collected in certain nonbreeding areas through consistent ground and aerial counts and, more recently, have been calculated by mathematical modelling based on resightings of marked birds.

Finally, we agree that not all red knot habitats are fully known, and some portions of the range are difficult to access or accurately survey. Although new information continues to emerge about such areas, new information available since the proposed rule has not changed our assessment of red knot population declines in Delaware Bay and Tierra del Fuego in the 2000s, or our evaluation of threats facing this species.

(83) Comment: One commenter stated that no controlled studies have been done to compare current red knot populations to prior red knot populations for the same area. In addition, the two areas (breeding and wintering) where this species spends most of the year are remote and not conducive to accurate population and biological studies.

Our Response: We disagree. While the size and remoteness of the breeding grounds have generally precluded comprehensive surveys, red knots typically spend only about 4 to 6 weeks per year in the Arctic. The rest of the year the birds use migration and wintering habitats. Repeated annual counts are available for several nonbreeding areas, some of them remote. Some of these counts date back to the early 1980s (see Population Surveys and Estimates in the Supplemental Document). In addition, we have gathered best available historical data dating back to the mid-1800s, as presented in the proposed rule (Rufa Red Knot Ecology and Abundance, pp. 33–36) and the Supplemental Document (Historical Distribution and Abundance). Although these historical data do not permit a quantitative analysis, they do convey a consistent qualitative account of historical population trends.

(84) Comment: One commenter stated that the notion that Delaware Bay is the only place used by rufa red knots omits Virginia's red knot counts, which the commenter states represent 74 percent of the red knot population in some years.

Our Response: We agree that Delaware Bay is not the only important spring stopover area. However, due to the HSC egg resource, we conclude that no single stopover area is more important for the red knot than the Delaware Bay (Harrington 1996, p. 73). As discussed under *Our Response 38,* we have analyzed more recent population data and conclude that Delaware Bay continues to supports the majority of red knots each spring. Notwithstanding the importance of Delaware Bay, the proposed rule (Rufa Red Knot Ecology and Abundance, pp. 17–23) and the Supplemental Document (Migration) also present information about numerous other stopover areas across the species' range, including Virginia. We agree that Virginia is an important spring stopover site, but disagree that it supports 74 percent of the total red knot population. We do not have an estimate of the percent of the total rufa red knot population that uses Virginia. However, by comparing late-May peak counts from Virginia and Delaware Bay, we can estimate how the total mid-Atlantic stopover population is typically distributed between these two areas in spring. Across those years with available data (1995, 1996, 2005 to 2014), average peak counts in Virginia were about 40 percent as large as those in Delaware Bay.

(85) Comment: Several commenters noted that annual counts of red knots stopping at Delaware Bay dropped from around 95,000 in 1982 and 1989 to fewer than 15,000 in 2007, 2010, and 2011. Peak counts in 2009, 2012, and 2013 were higher, between 24,000 and 25,000.

Our Response: We agree that the size of the red knot population stopping in Delaware Bay has declined substantially since the 1980s. However, we note that 1982 and 1989 were the all-time high counts in the bay and, therefore, not typical of annual peak counts recorded during this time period. From 1981 to 1983, average peak counts were 59,946, and from 1986 to 1994, average peak counts were 46,886. (See *Our Response 37* regarding the extent of the decline.) We also agree that, on average, counts since 2009 have increased somewhat, and we conclude that the population has apparently stabilized at a relatively low level (compared to baseline data from the 1980s), or slightly increased over this period. The proposed rule (Rufa Red Knot Ecology and Abundance, pp. 48–50) and Supplemental Document (Population Surveys and Estimates—Spring Stopover Areas—Delaware Bay) present the best available data regarding population trends in Delaware Bay.

(86) Comment: One commenter stated that data collection methods in North Carolina are incomplete. Only birds sighted within Cape Hatteras National Seashore are counted and not the birds on surrounding land or the dredge islands in the sound.

Our Response: We agree that data collection in North Carolina is incomplete, but we disagree that surveys occur only in Cape Hatteras National Seashore. While Cape Hatteras staff only survey areas within the National Seashore, additional areas are monitored by others. A public comment letter from North Carolina Wildlife Resource Commission (NCWRC 2013) summarized all red knot data that could be obtained in a timely manner, and shows numbers of red knots along North Carolina's coast, not only in the Cape Hatteras area. Survey efforts outside of Cape Hatteras include aerial surveys of the North Carolina coast, surveys at Cape Lookout National Seashore, surveys at shoals in the New Drum Inlet area, contract shorebird surveys at beach nourishment project areas, shorebird surveys at a storm-created inlet, and red knot observations incidental to other surveys (NCWRC 2013). Although data collection in North Carolina already goes well beyond the Cape Hatteras area, additional survey improvements can be made to increase understanding of the seasonal locations and numbers of red knots in the State (S. Schweitzer pers. comm. June 29, 2014). We anticipate that a holistic, rangewide review of data collection efforts and gaps will be an important component of the recovery planning process.

(87) Comment: Several commenters noted information about red knots along the Gulf Coast. One commenter stated that although several data sets do exist to provide some red knot abundance data, rigorous surveys that are typically used to detect long-term species trends are lacking for many parts of the Gulf coast. Other commenters provided new data, including some anecdotal, regarding declines in the population of red knots wintering on the Gulf of

Mexico from Florida to Texas. Likewise, one commenter stated that long-term data show significant declines of rufa red knots across the Gulf of Mexico.

Our Response: We agree that long-term data sets for the Gulf Coast are lacking and anticipate that a holistic, rangewide review of data collection efforts and gaps will be an important component of the recovery planning process. However, we consider the existing and new data received to be the best available data and have used it appropriately to draw conclusions in the Supplemental Document (Population Surveys and Estimates). Available information is quite limited and localized for Louisiana and Texas, but suggest that declines may have occurred (D. Newstead pers. comm. May 8, 2014; Johnson 2013, p. 1). In eastern parts of the Gulf, any declines likely reflect (at least in part) the shifting of some southeastern knots to the Atlantic coast.

(88) Comment: One commenter stated that the red knot marked with flag B95 has lived at least 20 years. Thus, red knots have a very slow repopulation rate.

Our Response: We do not dispute the age of B95, but we disagree with the conclusion the commenter derives from it. We agree red knot reproductive rates are likely low, but note that little information is available on this issue. First, B95 is the oldest known rufa red knot, and thus believed to be not typical of the average life span. In the proposed rule (Rufa Red Knot Ecology and Abundance, p. 7), we stated that few red knots live for more than about 7 years. We have revised this section of the Supplemental Document (Longevity and Survival) with new information about long-lived individuals, such as B95, that suggests the typical life span may be somewhat longer than 7 years, but 20 years is still considered an outlier. Second, although long life spans can be related to slow reproductive rates in some groups of animals, we have little data to indicate typical reproductive rates in rufa red knots. The Supplemental Document (Breeding Chronology and Success) presents what little data we have regarding red knot reproductive rates. Although there is much uncertainty around typical reproductive rates, certainty is high that the red knot's reproductive success varies widely among areas and years and is highly sensitive to predation and weather, as discussed in the proposed rule (Rufa Red Knot Ecology and Abundance, pp. 11–12).

(89) Comment: Several commenters stated that the United States serves only as a migration corridor twice a year. What little bit of time the red knot spends in the eastern United States is a situation that has not been fully studied.

Our Response: We disagree. First, red knots winter along parts of the U.S. coast, mainly from North Carolina to Florida and from Louisiana to Texas. Geolocator data show that red knots wintering in the Southeast-Caribbean and in Texas spent about 60 and 78 percent of their year, respectively, along the U.S. coasts (Newstead *et al.* 2013, p. 55; Burger *et al.* 2012b, p. 1). Second, red knots would be unable to complete their annual migrations without a network of high-quality stopover sites at which to rest and gain weight, as discussed in the proposed rule (Rufa Red Knot Ecology and Abundance, p. 23) and the Supplemental Document (Migration—Stopover Areas).

(90) Comment: One commenter stated that virtually the entire North American population of red knots uses the shores of the Delaware Bay during their migration in the spring. Likewise, another commenter stated that the red knot in North Carolina is at the extremity of its range because 90 percent of the entire population can be found in a single day in Delaware Bay.

Our Response: We disagree. The range of the rufa red knot extends from the central Canadian Arctic to the southern tip of South America. We acknowledge that no single stopover area is more important for the red knot than the Delaware Bay (Harrington 1996, p. 73). However, as discussed in the proposed rule (Rufa Red Knot Ecology and Abundance, p. 29), Delaware Bay provides the final Atlantic coast stopover each spring for the majority of the red knot population, but not the entire population (see *Our Response 38* above). The proposed rule (Rufa Red Knot Ecology and Abundance, pp. 17–23) and the Supplemental Document (Migration) present information about numerous other stopover areas across the species' range. Specific to North Carolina, habitats in this State support wintering red knots, and provide stopover during spring and fall migration (see Population Surveys and Estimates in the Supplemental Document). Some of the same birds that stop in Delaware Bay also winter or stopover in North Carolina (BandedBirds.org 2012; Niles *et al.* 2012a, entire), and new geolocator data from two juveniles show these birds spent much of their first (nonbreeding) year (winter and summer) in the Southeast between North Carolina and Georgia (S. Koch, L. Niles, R. Porter, and F. Sanders pers. comm. August 8 and 12, 2014).

(91) Comment: One commenter provided new geolocator results that several Texas-wintering knots followed a fall migration route along the Atlantic coast, rather than exclusively through the interior of the United States as stated in the proposed rule. While a midcontinental migration is probably the most common strategy, there are exceptions that are potentially important with respect to distinctness of the population, and the caveat about the inherent bias in geolocator studies should be given appropriate consideration. Further, high interannual variability in migratory strategy is illustrated by one individual red knot for which the commenter has 3 full years of migration data. Though some sites were used in multiple years, the actual routes and number of sites varied considerably among years.

Our Response: We thank the commenter, and have added this new information to the Supplemental Document (Migration—Midcontinent). We have also eliminated the referenced statement from the proposed rule, which we agree was an oversimplification, and we have noted the caveat about the inherent bias in geolocator studies (Research Methods). We referenced the new data about the migration of Texas-wintering knots along the Atlantic coast in *Our Response 31.*

(92) Comment: One commenter stated that red knots have not declined, but have instead changed their migratory path and habitat use. Red knots seem to be in smaller groups in many remote places in both North and South America.

Our Response: We agree there is evidence of changes in the use of particular migration stopover areas, both historically (Cohen *et al.* 2008) and more recently (Harrington *et al.* (2010a, pp. 188, 190). We also agree that many additional rufa red knot wintering and stopover areas have been documented in recent decades, some supporting relatively small numbers of birds. However, we attribute these recent findings to increased survey efforts, rather than a shift in migration strategy toward smaller and more widely distributed nonbreeding areas. In fact, there is evidence that, as numbers declined in the 2000s, red knot populations wintering in Argentina and Chile actually become more concentrated, contracting to the core sites on Tierra del Fuego and leaving few birds at the ''peripheral'' Patagonian sites (Committee on the Status of Endangered Wildlife in Canada (COSEWIC) 2007, p. 11). Further, we disagree that any such distributional

changes can explain the observed declines in the 2000s in Delaware Bay in spring, and in Argentina and Chile in winter. We have revised the Supplemental Document (Population Surveys and Estimates—Spring Stopover Areas—Delaware Bay) to clarify that, although we cannot rule out the possibility that some or all of the decline in Delaware Bay could have been caused by birds switching to other U.S. Atlantic stopover areas, we consider this unlikely based on surveys from Virginia, and on similarities in the magnitude and timing of the declines in Delaware Bay relative to Tierra del Fuego and several South American stopover sites.

(93) Comment: Several commenters stated that the longest distance migrants (*i.e.,* those red knots that winter in Tierra del Fuego) are entirely reliant on HSC eggs since the extreme physiological changes that they undergo for migration, including to their digestive systems, restrict their diet to soft prey at stopover sites. While knots from the southeast U.S. wintering areas may still be able to consume small bivalves, the Tierra del Fuego birds cannot.

Our Response: We disagree with the conclusion that red knots from Tierra del Fuego cannot digest bivalves during spring migration. We do recognize that red knots from the Tierra del Fuego wintering area may be more reliant on HSC eggs than other migrating red knots during the spring stopover in Delaware Bay, as we discussed in the proposed rule (Rufa Red Knot Ecology and Abundance, pp. 31–33). However, this section of the proposed rule also discussed data from Virginia and the Atlantic coast of New Jersey, where knots from Tierra del Fuego are known to feed on small bivalves (P. Atkinson pers. comm. November 8, 2012; Smith *et al.* 2008, p. 16). The Supplemental Document (Wintering and Migration Food—Possible Differential Reliance on Horseshoe Crab Eggs) has been revised to more clearly present these data; see *Our Response 54.*

(94) Comment: One commenter stated that recent studies from Dr. Allan Baker at the Royal Ontario Museum in Canada show genetic differences between the rufa population that winters in Florida, the population that winters along the northern coast of Brazil, and the longest distance migrant population that winters in Chile and Argentina. This commenter cites conclusions from Buehler and Piersma (2008) that Argentina-Chile populations are more vulnerable to energy, nutritional, timing, and immune ''bottlenecks'' with potential fitness consequences than the shorter-distance migrant populations of red knots. The commenter believes the red knot is only one species with several populations, but shows that what happens on the tip of one continent can have effects across the flyway.

Our Response: We are aware of this study by Dr. Baker investigating possible genetic differences between red knots by wintering area, but we do not have permission to cite his preliminary results, which have not yet been published. Therefore, we do not consider it to be ''available,'' and thus, we may not consider its findings in our listing determination. We have reviewed Buehler and Piersma (2008) and conclude that both shorter- and longer-distance migrants face tradeoffs among the various ''bottlenecks'' they face throughout their annual cycles. However, we have also revised the Supplemental Document (Wintering—Northern Versus Southern; Migration—Differences in Migration Strategy by Wintering Region) to discuss more fully the observed differences between northern- and southern-wintering knots, including evidence of greater vulnerability of the southern-wintering group (the longest-distance migrants) to food supplies and arrival times in Delaware Bay. Based on the best available data, we agree that the rufa red knot represents one subspecies with several wintering populations. We also agree that substantial threats anywhere along the flyway can potentially result in population-level effects.

(95) Comment: One commenter stated that, while *Calidris canutus* is somewhat unique among shorebirds as being a specialized molluscivore during much of its annual cycle, consumption of prey aside from mollusks in nonbreeding areas is well-documented, especially during prolonged migratory stopovers (*e.g., C.c. rufa* and HSC eggs in Delaware Bay and *C.c. roselaari* and Pacific grunion eggs in the Gulf of California). The documented red knot stopovers in the Northern Great Plains and the seasonal emergence of insect populations in the Central Flyway, various invertebrates on riverine sandbars, and brine shrimp in the saline lakes of Saskatchewan may be an ecological correlate to HSC eggs in the Atlantic flyway.

Our Response: Because we find these ideas plausible, based on our knowledge of red knot biology, and worthy of further investigation during forthcoming recovery efforts, we have mentioned them in the Supplemental Document (Migration and Wintering Food—Inland). However, we note that these ideas currently lack supporting documentation and did not rely on this information for our analyses.

(96) Comment: One commenter stated that, in 2012, only 55 percent of red knots studied in New Jersey reached the departure weight necessary to ensure their chance to breed in the Arctic. The remaining birds likely fail to survive the journey or reproduce, which results in serious population declines.

Our Response: The proportion of red knots attaining the target departure weight in Delaware Bay should not be confused with the annual survival rate. Amanda Dey (pers. comm. October 12, 2012) reported that 54 percent of red knots in Delaware Bay reached the target weight by the end of May 2012. Although this metric fell to 46 percent in 2013, these 2 years continued an overall upward trend in the percentage of birds reaching the target departure weight since the mid-2000s (Dey *et al.* 2014, pp. 1, 4), and remained relatively high for a third consecutive year in 2014 (A. Dey pers. comm. July 23, 2014). Further, although we agree that adequate weight gain in Delaware Bay is vital to red knot conservation, we disagree that most birds under the target weight fail to survive the subsequent year (*i.e.,* most low-weight birds do not die). Using data from 1997 to 2008, McGowan *et al.* (2011a, p. 13) confirmed that heavy birds had a higher average survival probability than light birds, but the difference was small (0.918 versus 0.915), as discussed in the proposed rule (78 FR 60024, p. 60069). These survival rates, averaged over the period 1997 to 2008, could mask more pronounced effects of low departure weights on survival over shorter periods. For example, the lowest survival estimates occurred in 1998, just before the period of sharpest declines in red knot counts (McGowan *et al.* 2011a, p. 13). The 1998 to 1999 survival rate estimate was 0.851 for heavy birds and 0.832 for light birds (McGowan *et al.* 2011a, p. 9). Based on best available information, we agree that low departure weights (caused by insufficient food supplies and late arrivals) were a primary causal factor in the decline of the *rufa* subspecies in the 2000s.

(97) Comment: One commenter stated that, for the most part, the barrier islands along the Atlantic coast are in public ownership, not private, and are not frequently used for development.

Our Response: We disagree. Land ownership varies widely along the U.S. Atlantic coast. Past and ongoing coastal development in some areas is extensive (78 FR 60024, pp. 60038–60043).

(98) Comment: Several commenters expressed concern over how the Service

characterized threats to the red knot stemming from climate change and how that same climate information could be applied to other species. One commenter acknowledged that effects to the red knot from climate change could be significant in the future, but noted they are not currently. Other commenters stated that the proposed rule does not cite scientific data or information linking red knot population declines with any climate-related effects, nor does the proposed rule present a detailed analysis of how or whether climate-related impacts will result in either reductions in fitness to the red knot species or future population declines, nor are there models showing the expected effects of climate change on rufa red knot abundance. The proposed rule acknowledged that the effects of climate change on the rufa red knot are unknown, uncertain, and speculative. Further, the proposed rule purports to forecast the effects of a complex global issue (climate change) up to 100 years into the future. This approach requires the Service to rely upon controversial modeling projections of complex data to forecast a future that is well beyond our reasonable ability to predict, and to imagine what the speculative biological consequences of these forecasts will be for the rufa red knot. This is an exercise in speculation, not an analysis based on existing scientific evidence, and if used as such then virtually every species may be considered threatened and this establishes a precedent that renders the Act's listing process unworkable. These same commenters stated that many of the threats identified by the proposal (*e.g.,* sea level rise and other effects of climate change) are by no means unique to the rufa red knot and may, therefore, be an unreasonable basis for listing since so many other species would be likewise affected.

Our Response: We disagree with these conclusions. Based on our review of best available information, we conclude that threats to the red knot, including those stemming from climate change, are likely to place this species in danger of extinction in the next few decades (see *Our Response 66* regarding ''foreseeable future''). Not all threats contributing to a species' threatened or endangered status must be tied to past or ongoing population declines, if future declines are likely (see *Our Responses 27* and *77*). While we continue to conclude that reduced food availability and late arrivals at the Delaware Bay stopover site were the primary causal factors in the decline of rufa red knot populations in the 2000s (78 FR 60024, pp. 60063, 60076), climate-induced environmental changes likely to affect the red knot are already occurring and likely to intensify. We have updated the Supplemental Document (Overview of Threats Related to Climate Change) with information from recent assessments of the red knot's vulnerability to climate change indicating a large increase in extinction risk (Galbraith *et al.* 2014, p. 7; National Wildlife Federation 2013, p. 28; Whitman *et al.* 2013, pp. 2, 19, 64).

We disagree that this listing determination relies upon ''controversial modeling projections of complex data to forecast a future that is well beyond our reasonable ability to predict.'' Instead, we relied upon mainstream and thoroughly vetted climate science publications (*e.g.,* from the IPCC, the U.S. Global Change Research Program, the National Research Council, and the Arctic Climate Impact Assessment) that present scientifically based ranges of likely future climate conditions under various emissions scenarios. The IPCC (2013b) defines a scenario as a coherent, internally consistent, and plausible description of a possible future state of the world; it is not a forecast; rather, each scenario is one alternative image of how the future can unfold. Various levels of uncertainty are associated with all scientific data and with all analyses of future conditions. The uncertainty levels associated with different aspects of climate change have been standardized by the IPCC (see Supplemental Document table 14). We used this standardized terminology transparently and consistently in the proposed rule (Climate Change Background, p. 2) and in the Supplemental Document (Climate Change—Background). The key findings of climate science—that human-caused climate change is occurring and will continue to affect temperatures, precipitation patterns, sea levels, and ocean pH levels—continue to be associated with high levels of certainty (Melillo *et al.* 2014, pp. 20–49; IPCC 2013a, p. 7).

We also disagree that the effects of climate change on the rufa red knot are ''unknown, uncertain, and speculative'' and that the proposed rule does not present a detailed analysis as to ''how or whether climate-related impacts will result in either reductions in fitness to the red knot or future population declines.'' Throughout the proposed rule (and summarized at 78 FR 60024, pp. 60028–20029), we presented detailed analyses of best available data (and associated levels of uncertainty, when available) regarding how red knot habitats and populations are likely to respond to climate changes over the coming decades. While biological modeling showing the expected effects of climate change on rufa red knot abundance may be helpful in future recovery efforts, such models are not currently available and research to generate them is not required for the Service to make a listing determination under the Act's ''best available'' data standard. We acknowledge that climate change is a complex global issue and that uncertainties exist. However, the best available science indicates climate change is expected to affect red knot fitness and, therefore, survival through direct and indirect effects on breeding and nonbreeding habitat, food availability, and timing of the birds' annual cycle. Ecosystem changes in the arctic (*e.g.,* changes in predation patterns and pressures) may also reduce reproductive output. Together, these anticipated changes will likely negatively influence the long-term survival of the rufa red knot.

Finally, we disagree that virtually every species may be considered for listing due to the effects of climate change, or that climate-related threats are equally applicable to all species within the coastal zone. The Act requires the Service to evaluate each species of concern or petitioned species individually to assess whether listing as threatened or endangered is warranted. Not all species will be affected by the effects of climate change in the same manner; each species' biological traits and population dynamics will make it more or less resilient to any stressor. That said, it is likely that additional species will be found to meet the definition of a threatened or endangered species based on threats stemming from climate change as its effects intensify in the future.

(99) Comment: One commenter stated that climate change has affected the red knot because wintering zones have moved farther up in South America than in the past.

Our Response: We agree that climate change effects are a primary threat to the red knot, but disagree that such effects have caused a range shift to date. Although we anticipate that changing climatic conditions will likely cause latitudinal shifts in the position of some red knot habitats, we expect such habitat shifts will primarily affect the red knot within its breeding range (78 FR 60024, pp. 60047–60049), because the nonbreeding range already spans the entire latitudinal gradient from Tierra del Fuego to southern Canada. We have no evidence that red knots have shifted their winter ranges in response to climate change. We do note that the

Argentina-Chile wintering area has contracted by about 1,000 mi (1,600 km) poleward (south), which is the direction that would be consistent with the effects of climate change (Root *et al.* 2003, p. 57). However, we conclude that this contraction was not primarily caused by climate change, but instead a result of an overall decreasing winter population size in this region (COSEWIC 2007, p. 11). Population declines are often accompanied by abandonment of ''peripheral'' habitats and a geographic contraction into only the best (''core'') habitats. A similar phenomenon was noted for HSCs within Delaware Bay (Lathrop 2005, p. 4).

(100) Comment: One commenter stated that Congress did not intend for the Act to be used to regulate greenhouse emissions or climate change. This commenter is concerned that a final listing rule may be misused or impose undue burdens on American industries or activities, particularly those that have greenhouse gas emissions. Another commenter stated that the Service has previously recognized there is insufficient evidence to establish a causal connection between greenhouse emissions from particular activities and impacts to certain species.

Our Response: As stated in the proposed rule (78 FR 60024, p. 60097), a determination to list the rufa red knot as a threatened species under the Act will not regulate greenhouse gas emissions. Rather, it will reflect a determination that the rufa red knot meets the definition of a threatened species, thereby establishing certain protections for it under the Act.

(101) Comment: One commenter stated that no field data have been gathered or analyzed to compare the status of red knot populations that are isolated from human activity to those that are exposed to human activity.

Our Response: We disagree that field data are not available regarding the effects of disturbance. In the proposed rule (78 FR 60024, pp. 60076–60079), we presented several studies that include field data on the effects of human disturbance on red knots and other shorebirds. We are not aware of any comparative studies of red knot population trends in high-disturbance versus low-disturbance areas, but conclude that such studies would be confounded by the migratory connectivity of red knot sites (*i.e.,* factors affecting survival in any part of the range may affect populations rangewide), and by other site-specific factors (*e.g.,* habitat quality, food availability, predation rates) influencing local or regional population trends.

(102) Comment: Several commenters stated that anecdotal data from long-term barrier island residents suggest that red knots feed and carry on unaffected by the presence of some human activity (*e.g.,* surf fishing) and that operation of offroad vehicles (ORVs) driving within 10 yards of a cluster of red knots that are feeding does not cause them to be disturbed or fly. Further, drivers of ORVs do not drive in the same part of the beach used by red knots for feeding, and if there is any reaction, the flock goes up while the vehicle goes by only to land again either in the same spot or a little farther away. Thus, the birds are not being harassed to the point their life cycle is being threatened. These commenters also contend that cannon netting by researchers causes a higher degree of disturbance than these recreational activities.

Our Response: We disagree that red knots are unaffected by human activity. We agree that red knots may have a minimal response to low levels of disturbance, and that reaction distances and durations likely vary with the type and intensity of the disturbance, as well among sites and among seasons. We also agree that no one particular disturbance event is likely to impact a red knot's fitness or survival. However, the cumulative effects of repeated or prolonged disturbance have been shown to preclude shorebird use of otherwise preferred habitats and can impact the birds' energy budgets (*i.e.,* their ability to gain and maintain adequate weight) (78 FR 60024, p. 60079). We disagree that ORV drivers always remain out of the wet sand of the intertidal zone where red knots feed. On some beaches, driving on the dry beach is restricted to prevent damage to dunes and wrack, and in some areas drivers avoid the dry sand to prevent getting stuck. Even where driving is restricted to the dry beach, ORV use may disturb roosting, instead of foraging, red knots.

We agree that certain research methods are highly disturbing to red knots. Therefore, we anticipate that any recovery permits issued under the Act will include conditions to strictly limit the extent and duration of disturbance to red knots from research activities, typical of the best practices that are already generally followed by the research community.

(103) Comment: Several commenters stated that the Delaware Bay-wide HSC egg densities show no upward trend. Another commenter stated that the decline in HSC egg density on New Jersey's Delaware Bay beaches as described in the 2007 status assessment is deceptive, there are no data supporting a problem of egg availability for the red knots on the Delaware Bay beaches, and the Delaware Bay egg density data and studies should not be used for management or listing of red knots.

Our Response: We concur that the Delaware Bay-wide HSC egg densities show no upward trend, but note that we have only moderate confidence in this data set. We recognize the importance of surface egg availability to red knots in Delaware Bay, and egg densities have been statistically correlated with red knot weight gain (Dey *et al.* 2013, pp. 18–19; H. Sitters pers. comm. April 26, 2013). However, methodological concerns with the egg density surveys are described in the proposed rule and in the Supplemental Document, and limit our confidence in this data set. The ASMFC recently dropped the requirement for the States of New Jersey and Delaware to conduct the egg density surveys, largely because these data are not used in the ARM framework; however, New Jersey plans to continue the survey on its side of Delaware Bay (M. Hawk pers. comm. April 8, 2014; ASMFC 2013e, p. 4).

We did rely partly, but not solely, on the egg density analysis as presented in the 2007 status assessment (which was later updated and published independent of the Service as Niles *et al.* 2008). Based on our own analysis of the egg density data (78 FR 60024, pp. 60067–60068 and Supplemental Document section Factor E—Reduced Food Availability—Horseshoe Crab Harvest—Link B, Part 2), and considering several different data sources, we regarded trends in egg density data as a secondary line of supporting evidence that insufficiency of food resources was an important factor (along with late arrivals) contributing to the decline of the Delaware Bay stopover population. Thus, Delaware Bay egg density data were a relatively minor consideration in our determination of the threatened status of the red knot. Despite the lack of upward trends in baywide egg densities, our assessment of the best available data from several lines of evidence concludes that the volume of HSC eggs is currently sufficient to support the Delaware Bay's stopover population of red knots at its present size. However, because of the uncertain trajectory of HSC population growth, it is not yet known if the egg resource will continue to adequately support red knot population growth over the next decade. This conclusion is unchanged from the proposed rule (78 FR 60024, p. 60063).

(104) Comment: One commenter stated that the number of HSC eggs on Delaware Bay shores dropped from

40,000 eggs per square meter (m^2) in the 1990s to only 1,500 eggs per m^2 in 2005.

Our Response: In the proposed rule (78 FR 60024, pp. 60067–60068), we discussed methodological concerns with the HSC egg density data, particularly prior to 2005. We attached somewhat higher confidence to trends since 2005 because methodologies have been more consistent over that period—there was no significant trend in baywide egg densities from 2005 to 2012. However, the Delaware Bay egg density data were a relatively minor consideration in our determination of the threatened status of the red knot, and are not used in management of the HSC fishery under the ARM (see *Our Response 103* above).

(105) Comment: One commenter stated that the early (1981 through 2000) declines in red knot counts in Delaware Bay were not reflected in the Argentina-Chile wintering area, which contradicts the assertion that later (after 2000) declines in this wintering area were caused by inadequate weight gains in Delaware Bay. Conversely, another commenter stated that, with fewer eggs to feed on, up to 75 percent of red knots surveyed on the Delaware Bay suffered a year-on-year decline in their rate of weight gain between 1990 and 2006. Further, lower weight birds have been shown to have lower survival rates, and scientific models predicted that the red knot may become extinct by 2010.

Our Response: We agree there may have been declines in the Delaware Bay's red knot stopover population prior to 2001, but we also note considerable variability in the peak count data set that makes it difficult to detect trends. In contrast, the decline in peak counts in the 2000s was sufficiently pronounced and sustained that we have confidence in the downward trend over this time period despite the variability of the data set. We agree that a number of data sets have been used to draw conclusions about the correlation between HSC harvest and red knot population trends. Not all of the data sets agree completely, suggesting that other factors likely contributed to the red knot decline (*e.g.,* late arrivals in Delaware Bay, other threats discussed in the proposed rule). Keeping in mind the limitations of the various data sets and the biology of HSCs and red knots and looking at the general trends, we find a temporal correlation between high harvest levels leading up to the year 2000, and a relatively sudden decline in the red knot Argentina-Chile wintering population around that same time period, concurrent with a pronounced decline in Delaware Bay. Moving from correlation to causation, our conclusion is based on a detailed analysis (78 FR 60024, pp. 60063–60071 and Supplemental Document section Factor E—Reduced Food Availability—Horseshoe Crab Harvest): Although the causal chain from HSC harvest to red knot populations has several links associated with various levels of uncertainty, the weight of evidence supports these linkages, points to past harvest as a key factor in the decline of the red knot, and underscores the importance of continued HSC management to meet the needs of the red knot.

In the proposed rule (78 FR 60024, p. 60069), we discussed trends in red knot weight gain, relying mainly on the percentage of red knots greater than the target weight at the end of May. This metric for weight gain showed a downward trend in the percentage of heavy birds starting in 1997, which started to reverse by the late 2000s. In the proposed rule (78 FR 60024, pp. 60069–60079), we also evaluated the best available data regarding the link between red knot spring weight gain in Delaware Bay and the birds' subsequent survival. In this analysis, we relied primarily on Baker *et al.* (2004) and McGowan *et al.* (2011a), both of which found a link between spring weight gain in Delaware Bay and survival. We acknowledge the following statement by Baker *et al.* (2004, p. 879), ''if the 1997/1998 to 2000/2001 levels of annual survival prevail, the population is predicted to approach extremely low numbers by 2010 when the probability of extinction will be correspondingly higher than it is today.'' However, we did not evaluate this statement in the proposed rule because the newer results of McGowan *et al.* (2011a) indicate those earlier (and lower) survival rates were no longer prevailing.

(106) Comment: One commenter suggested that other threats such as disease and research activities may have been responsible for red knot and HSCs declines, rather than overharvesting of HSCs. Conversely, another commenter believes gross mismanagement of the HSC fishery has dramatically decreased the availability of HSC eggs for the red knot and other migratory shorebirds.

Our Response: As discussed in the proposed rule (78 FR 60024, p. 60063), we completed a detailed analysis of all three threats (disease, research, HSC harvest) and recognize the effect that formerly excessive harvesting of HSCs had on the red knot's food resources and the contribution this activity had to the knot's population decline. See *Our Responses 45* and *46* regarding egg availability and the ASMFC's regulation of the HSC fishery, respectively.

(107) Comment: Several commenters suggested that supplemental feeding of red knots in Delaware Bay may be needed until HSC populations return to levels that provide adequate egg supplies for the birds.

Our Response: As noted in the proposed rule (78 FR 60024, p. 60063), most data suggest that the volume of HSC eggs is currently sufficient to support the Delaware Bay's stopover population of red knots at its present size. However, ensuring the future HSC egg supply will be addressed during the recovery planning process, and we intend to continue our active role in the ASMFC's management of the HSC fishery. We acknowledge considerable uncertainty around the future food supplies for red knots, in Delaware Bay and in nonbreeding habitats rangewide. We would not rule out direct human intervention (*e.g.,* supplemental feeding) as an appropriate conservation response if food supplies in any part of the range should someday become so depleted as to present an imminent, population-level threat. However, we would consider such a step only as a last resort because it fails to fulfill a central purpose of the Act, ''to provide a means whereby the ecosystems upon which endangered species and threatened species depend may be conserved.'' Although supplemental feeding of wild birds is not the same as controlled propagation, it has similar conservation implications (*e.g.,* direct human intervention as opposed to the conservation of the supporting ecosystem). Thus, we feel this excerpt from the Policy Regarding Controlled Propagation of Species Listed Under the Endangered Species Act (65 FR 5690) would also apply to supplemental feeding: ''Controlled propagation is not a substitute for addressing factors responsible for an endangered or threatened species' decline. Therefore, our first priority is to recover wild populations in their natural habitat wherever possible, without resorting to the use of controlled propagation.''

(108) Comment: One commenter stated that since the ARM framework establishes a conservative HSC harvest level for the Delaware Bay spawning population of HSCs, significant threats are more likely to occur at other points along the migratory flyways.

Our Response: We agree that, as long as the ARM is in place and functioning as intended, the ongoing HSC bait harvest should not be a threat to the red knot (see *Our Responses 46* and *48*). We also agree that a number of other threats throughout the knot's range are contributing to habitat loss, anthropogenic mortality, or both, and

that these threats are likely to increase in the future. Thus, new attention to these emerging threats will be imperative for red knot recovery. However, we also conclude that a sustained focus on protecting the red knot's food supply—in Delaware Bay and throughout the range—will also be vital to red knot recovery (see *Our Responses 45, 78,* and *126*).

(109) Comment: One commenter stated that the HSC population in Delaware Bay has fluctuated between 1.5 and 2 million since 2007. Several commenters stated that there have been no increases in the number of female HSCs, or of total crabs, spawning in Delaware Bay.

Our Response 109: We disagree that the HSC population in Delaware Bay has fluctuated between 1.5 and 2 million. This estimate of 1.5 to 2 million crabs is for spawning adults, and is not the same as the size of the total baywide HSC population. As indicated in the proposed rule (78 FR 60024, p. 60065), Smith *et al.* (2006, p. 461) estimated the population of HSCs in the Delaware Bay Region in 2003 at about 20 million adults, based on modeling of marked HSCs. We have updated the Supplemental Document (Factor E—Food Availability—Horseshoe Crab Harvest—Link A, Part 1) with newer estimates from Smith (2013), based on a different methodology but showing similar results. Smith (2013, p. 2) reported annual estimates of the baywide population size from 2002 to 2012, with an average over this period of about 19 million and consistently more males than females.

Specific to spawning crab counts, Swan *et al.* reported season-long total counts of roughly 1.3 to 2 million spawning adults along the Delaware Bay shoreline from 2007 to 2012 (Swan *et al.* 2012, p. 1; Swan *et al.* 2011, p. 1; Swan *et al.* 2010, p. 1; Swan *et al.* 2009, p. 1; Swan *et al.* 2008, p. 1; Swan *et al.* 2007, p. 1). We reviewed but, for methodological reasons, did not rely on this data set from Swan *et al.* (2007 to 2012) to evaluate trends in numbers of spawning adult crabs. Instead, we have relied on spawning HSC density reports prepared for the ASMFC. We agree there have been no increases in the number of female HSCs spawning in Delaware Bay. The most recent report of the density data concluded that baywide spawning activity shows no statistically significant trends from 1999 through 2012 (Zimmerman *et al.* 2013; p. 1). This is a change from Zimmerman *et al.* (2012, pp. 1–2), which reported that, although there was no trend in females, numbers of spawning males showed a statistically significant increase from 1999 through 2011. This new information has been incorporated into the Supplemental Document (Factor E—Reduced Food Availability—Horseshoe Crab Harvest—Link B, Part 1). See *Our Response 46* for more discussion of female HSC population trends.

(110) Comment: One commenter stated that, due to the bait harvest, the Delaware Bay population of HSCs declined by 90 percent between 1990 and 2006.

Our Response: We disagree that the percent decline for the HSC population in the Delaware Bay Region can be determined over this time period, because there are no estimates of the size of this population prior to 2003 (done by Smith *et al.* 2006). As no population size estimates are available prior to the 1990s increase in harvest levels, we rely on the ASMFC's periodic stock assessments to appropriately weigh and statistically analyze available data sets to draw conclusions regarding HSC population trends, as discussed in the proposed rule (78 FR 60024, p. 60066) and the Supplemental Document (Factor E— Reduced Food Availability—Horseshoe Crab Harvest—Link A, Part 2); see *Our Response 46.*

(111) Comment: One commenter stated that females are the limiting sex within the HSC population and have a direct ecological link to migratory shorebirds through their eggs. Under the ARM, female HSCs in the Delaware Bay region are fully protected for the benefit of migratory shorebirds. The ARM does not authorize the harvest of females until the HSC population reaches 80 percent of its carrying capacity, which is well beyond the realm of traditional fishery management parameters, reflecting the ecological importance of the resource, and the risk-averse characteristics of the current management plan. The ARM model builds upon a male-only or male-biased regulatory strategy for Delaware Bay HSCs that was adopted by the ASMFC in 2006. The biological and ecological basis for the male-only harvest is based on the best available science for the species; males are not limiting within the HSC population dynamics, and are not ecologically limiting with respect to HSC egg availability for shorebirds. Well before the adoption of the male-only harvest strategy in 2006 and the ARM implementation in 2012, the ASMFC had already reduced the coastwide harvest of HSCs by approximately 70 percent from reference period landings, through a series of increasingly restrictive addenda. The HSC quotas in the Delaware Bay region have been specified by the ASMFC at very low rates of removal that are fully consistent with both population growth and ecological sustainability. The 2009 HSC stock assessment indicated the fishing mortality rates for HSCs in the Delaware Bay region were consistent with population growth.

Our Response: We agree with this assessment of the importance of female HSCs. We agree that the strongly male-biased fishery management was appropriate prior to adoption of the ARM, and a male-only harvest continues to be warranted based on the current ARM outputs. We conclude that the ARM provides adequate protection for females from the bait harvest, but we note that some female mortality does occur as a result of the biomedical harvest. Other commenters noted that positive trends in female HSC populations are absent, even after 7 years of male-only harvest, possibly suggesting losses of female crabs from unregulated or undocumented sources including biomedical mortality. We discuss this and other possible explanations for the lack of growth in measures of female abundance under *Our Responses 46* and *49.* In the proposed rule (78 FR 60024, pp. 60064–60065), we noted the shift to a strongly male-biased harvest, and the successive harvest restrictions that reduced reported landings from 1998 to 2011 by over 75 percent. We also discussed the findings of the 2009 stock assessment (78 FR 60024, pp. 60064–60065). The Supplemental Document (Factor E—Reduced Food Availability—Horseshoe Crab Harvest—Link A, Part 2) has been updated to include the results of the 2013 stock assessment update.

(112) Comment: One commenter stated that the 2009 HSC stock assessment indicated the mortality rates were approximately 70 to 75 percent below the fishing mortality rate associated with maximum sustainable yield (FMSY). Even without the benefit of the subsequent ARM model, these removal rates were already well below conservative levels for important forage species. The 2012 Lenfest report included a comprehensive examination of marine ecosystems and concluded that fishing at half of traditional FMSY values results in a low probability of collapse for forage fish and lower risk for dependent species. The quotas set by the ASMFC under addenda IV, V, and VI were already well below these guidelines, and were specifically male-biased to ensure the ecological sustainability of the fishery.

Our Response: We agree that the 2009 stock assessment reflects substantial reductions in harvest levels, from their peak at 2 to 3 times FMSY in 1998 and 1999 to 23.2 percent of FMSY (both

sexes combined) in 2008 (ASMFC 2009a, pp. 25, 57). However, we disagree that the findings of the 2012 Lenfest report can be extrapolated to HSCs (e.g, to suggest a harvest level relative to FMSY that is adequate for dependent species such as red knot and other shorebirds). The authors of the Lenfest report (Pikitch *et al.* 2012, p. 4) defined forage fish characteristics, some of which are not shared by HSCs (*e.g.,* provide energy flow from plankton to higher trophic levels, relatively small body size, fast growth, early maturity). Instead, we rely on the ARM to establish conservative harvest limits that ensure an adequate supply of HSC eggs to support red knots in Delaware Bay.

(113) Comment: One commenter stated that under addenda IV, V, and VI to the ASMFC's fishery management plan, HSC harvests in Delaware and New Jersey were limited, by quota, to 100,000 male HSCs annually per State. New Jersey's legislature closed its HSC fishery. If both States utilized their quotas at that time, total harvest would have been less than 2 percent of the adult male HSC population, which was estimated at 12 million.

Our Response: We agree with this estimate of the percentage of the male population annually authorized for harvest under these addenda. In the proposed rule (78 FR 60024, p. 60065), we noted that recent annual harvests of roughly 200,000 HSCs from the Delaware Bay Region (which reflects New Jersey's moratorium as well as harvest from the other three States in the Region) represent about 1 percent of the total adult (male and female) population. Our estimate of 1 percent is unchanged in the Supplemental Document (Factor E—Food Availability—Horseshoe Crab Harvest—Link A, Part 1) even upon updating the landings and estimated population size with new data.

(114) Comment: One commenter stated that the analysis of HSC tagging data by the ASFMC's Technical Committee has suggested that approximately 13 percent of Maryland's catch of HSCs and approximately 9 percent of Virginia's catch, east of the COLREGS line (which delimits internal from ocean waters), are of Delaware Bay origin. A line of genetic evidence suggested that 51 percent of Maryland's catch and 35 percent of Virginia's catch, east of the [International Regulations for Preventing Collisions at Sea] COLREGS line, is of Delaware Bay origin. When the ASMFC implemented the ARM model in 2012, it required all of Maryland's catch and all of Virginia's catch east of the COLREGS line to be male-only, as a precautionary measure, to ensure the ecological sustainability of these fisheries in waters adjacent to the Delaware Bay Region.

Our Response: In the proposed rule (78 FR 60024, p. 60070), we concluded that the ASMFC's current delineation of the Delaware Bay Region HSC population is based on best available information and is appropriate for use in the ARM modeling, but we acknowledged some uncertainty regarding the population structure and distribution of Delaware Bay HSCs. In documenting the technical underpinnings of the ARM, the ASMFC (2009b, p. 7) acknowledged that the proportion of Maryland and Virginia landings that come from Delaware Bay is currently unresolved, but stated that their approach to estimating this proportion was conservative. We have revised the Supplemental Document (Factor E—Food Availability—Horseshoe Crab Harvest—Adaptive Resource Management) to state that we anticipate the ARM process will adapt to substantive new information that reduces uncertainty about the Delaware Bay HSC population structure and geographic distribution. See *Our Response 49.*

(115) Comment: One commenter stated that table 9 (reported Atlantic coast landings) in the proposed rule does not describe the conversion between pounds and numbers of HSC harvested; thus reviewers cannot provide meaningful comment on the data.

Our Response: As explained in the proposed rule (78 FR 60024, p. 60064), the HSC landings data given in pounds come from the National Marine Fisheries Service (NMFS), but should be viewed with caution as these records are often incomplete and represent an underestimate of actual harvest (ASMFC 1998, p. 6). In addition, reporting has increased over the years, and the conversion factors used to convert crab numbers to pounds have varied widely (ASMFC 2009a, p. 2), thus we are unable to convert the pounds to numbers of crabs. (For this same reason, the ASFMC also retains these data in pounds in its stock assessments.) Despite these inaccuracies, the reported landings show that commercial harvest of HSCs increased substantially from 1990 to 1998 and has generally declined since then (ASMFC 2013b, p. 8; ASMFC 2009a, p. 2). The ASMFC (1998, p. 6) also considered other data sources to corroborate a significant increase in harvest in the 1990s. Despite the known problems with this data set, no other data are available regarding harvest levels prior to 1998; thus, we have considered these data only to document the very sharp increase in harvest levels that occurred in the mid-1990s. The ASMFC relies on these data for the same purpose in its periodic stock assessments (ASMFC 2013b; ASMFC 2009a; ASMFC 2004)—we consider these stock assessments the best available information regarding trends in harvest levels. We have revised the Supplemental Document (added a footnote to table 23) to clarify that the landings reported to NMFS are provided for context only and cannot be converted to numbers of crabs and thus cannot be directly compared to the data reported to the ASMFC.

(116) Comment: One commenter stated that the proposed rule does not make clear in the discussions of egg availability or harvest pressure that female HSC harvest in the Delaware Bay bait fishery has been prohibited since 2006.

Our Response: We have revised the Supplemental Document (Factor E—Reduced Food Availability—Horseshoe Crab Harvest—Link A) to clarify this point.

(117) Comment: One commenter stated that efforts to restrict the HSC fishery are inconsistent from State to State, and that restrictions imposed by individual States are being successfully challenged and overturned by the commercial fishing industry. One commenter stated that other States (besides New Jersey) still do not have a ban on HSC harvesting, and this needs to be changed. Another commenter stated that the New Jersey moratorium on HSC fishing in its portion of Delaware Bay is insufficient to protect the red knot from continued population decline in the face of coastal development and constant disturbance at migratory stopover sites and with climate change affecting food availability in the Arctic.

Our Response: Regulation of the HSC fishery by the ASMFC is consistent coastwide, in that all member States follow the same Fisheries Management Plan. However, due to regional and local differences (*e.g.,* status and trends of HSC populations; nature and intensity of harvests), each State ends up with different quotas. In addition, each member State within the ASMFC is required to establish and enforce its own harvest regulations that ensure compliance with the Fishery Management Plan, and the specifics of these regulations vary from State to State. Each ASMFC member State may opt to adopt harvest limits that are more restrictive than those mandated by the ASMFC, but these limits would be subject to legal challenges within the regulatory framework of that State. New

Jersey's moratorium, which is more restrictive than required by the ASMFC, results in implementation of the ARM being more conservative (see *Our Response 49*), but has also raised concerns about unintended consequences (see *Our Response 120*). Notwithstanding the potential risks and benefits of New Jersey's moratorium, we continue to conclude that management of HSC harvests under the ARM is adequate to abate the food supply threat to red knots from HSC harvest in Delaware Bay. However, even with highly successful harvest management under the ARM, the HSC population will continue to grow only to the extent that it remains limited by harvest; other factors affecting crab populations cannot be affected by management of the fishery. (See *Our Response 46* regarding these other factors, as well as new uncertainty about the future of the ARM). In addition, we agree that, beyond the supply of HSC eggs, there are other substantial and widespread threats to the red knot (see *Our Response 108*).

(118) Comment: One commenter stated that New Jersey's moratorium on HSC harvest does not appear to have a scientific basis.

Our Response: Each ASMFC member State may opt to adopt harvest limits that are more restrictive than those mandated by the ASMFC. We factored New Jersey's moratorium into our analyses of current harvest levels and management practices, but we recognize that the New Jersey legislature could decide to lift the moratorium at any time. If that happens, New Jersey would be required to abide by the ASMFC harvest recommendations set forth by the ARM process. We conclude that harvest levels set through the ARM process are adequate to manage the threat to red knots from insufficient food resources in Delaware Bay.

(119) Comment: One commenter doubted that overharvest of HSCs could have occurred based on the successively restrictive harvest regulations implemented in New Jersey from 1993 through 1997.

Our Response: We disagree. No definitions of ''overfishing'' or ''overfished'' have been adopted by the ASMFC for HSC (ASMFC 2013b, p. 21). That said, Delaware Bay's HSC population is affected by harvests in Delaware and parts of Maryland and Virginia, as well as in New Jersey. Our evaluation of best available data (78 FR 60024, pp. 60064–60067 and Supplemental Document section Horseshoe Crab—Harvest and Population Levels) shows that coastwide harvest levels grew sharply from 1993 through 1997, and that the 2004 stock assessment found a clear preponderance of evidence that HSC populations in the Delaware Bay Region declined from the late 1980s to 2003 (ASMFC 2004, p. 27).

(120) Comment: One commenter stated that the State of New Jersey still maintains its ultraconservative HSC management strategy of a moratorium when the ARM framework would allow commercial fishermen to harvest 162,000 male HSCs from New Jersey outside of the spawning season. New Jersey's insistence of maintaining a moratorium has led to some negative biological consequences in redirecting fishing effort to New York and Massachusetts spawning populations of HSCs, which are now in decline. The HSC bait shortage has also led to the dangerous importation of Asian HSCs, all species of which are highly depleted, to meet the bait needs of the domestic whelk/conch and eel fisheries.

Our Response: We are aware of the finding that decreased harvest of the Delaware Bay population has redirected harvest to other parts of the Atlantic coast that now may be at unsustainable levels (ASMFC 2013b, p. 22). As discussed in the proposed rule (78 FR 60024, p. 60067; Factor D: The Inadequacy of Existing Regulatory Mechanisms, p. 12), we also agree the importation of Asian HSCs is a threat to both the native HSC and the red knot. We have updated the Supplemental Document (Factor E—Reduced Food Availability—Horseshoe Crab Harvest—Link A, Part 2) with new information regarding efforts by individual States to restrict the import of Asian HSCs. The Service will evaluate the need to expand Lacey Act restrictions on the import of Asian HSCs at the Federal level. In addition, a Service biologist was recently selected by the IUCN as one of six scientists to assess and make recommendations on the status of the HSC throughout its range, with a counterpart team assessing the Asian species. The Service shares the concern of this commenter for the coastwide management and conservation of the HSC, and we intend to continue our active role in the ASMFC's management of the HSC fishery that considers the Delaware Bay population in a coastwide context.

We are aware that some ASMFC members have expressed concern that harvest levels in the Delaware Bay Region, which are set by the ASMFC and further reduced by New Jersey's moratorium, have raised the price of bait crabs and thus contribute to both the redirecting of harvest to other parts of the coast and the increasing interest in importing Asian crabs as alternative bait (ASMFC 2013f, p. 1). We lack data to determine the relative roles, if any, of the New Jersey moratorium versus the coastwide regulation by the ASMFC in driving these trends. We continue to support the ARM as a scientifically sound mechanism for managing Delaware Bay's HSC fishery that adequately abates the threat to red knots from food supply issues in the bay. See *Our Responses 117* and *118* regarding New Jersey's moratorium.

(121) Comment: Several commenters disagreed with our conclusion that, as managed under the ARM, current HSC harvest levels are not a current threat to the red knot. Conversely, several other commenters stated that the ARM framework adopted by the ASMFC appears to be an effective approach to managing harvest in Delaware Bay so that conservation of red knots and other shorebirds and HSCs are balanced with societal demands. In addition, since the model was favorably peer-reviewed in 2009, its management strategy prioritizes the needs of migratory shorebirds, and it is based on the best available science, it should fully satisfy section 9 of the Act if the listing is approved.

Our Response: We have reviewed information and analyses of the ARM provided by several commenters, but continue to conclude based on the best available data that, as long as it is functioning as intended, the ARM framework adequately abates the threat to the red knot from the HSC bait harvest. We agree that the ARM is based on best available science and is a sound process. The Supplemental Document (Factor E—Reduce Food Availability—Horseshoe Crab Harvest—Adaptive Resource Management) has been updated to clarify that our conclusions about the ARM are based on (1) the technical soundness of the peer-reviewed models; (2) the explicit linking of HSC harvest quotas to red knot population targets; and (3) the adaptive nature of both the models and the framework, which are intended to regularly adjust as new information becomes available. Our conclusion is supported by recent computer simulations by Smith *et al.* (2013, entire). Although these simulations are not intended to predict actual timeframes for population growth, they did show that simulated red knot population trajectories under HSC harvest scenarios governed by the ARM almost matched simulated red knot population trajectories under a fixed HSC moratorium scenario; thus, the bait harvest levels allowed under the ARM are expected to have a negligible effect

on the red knot's Delaware Bay stopover population.

In the proposed rule (78 FR 60024, p. 60097), we concluded that the harvest of HSCs in accordance with the ARM, provided the ARM is implemented as intended (*e.g.,* including implementation of necessary monitoring programs) and enforced, is not likely to result in a violation of section 9 of the Act. Thus, we do not anticipate recommending additional HSC harvest restrictions in Delaware Bay (beyond the ARM) as a result of listing the red knot. (However, see *Our Response 46* regarding new uncertainty about the future of the ARM.) We intend to continue our active role in the ASMFC's management of the HSC fishery, and will provide recommendations and technical assistance to ensure that future harvests of HSCs do not result in take of red knots under section 9 of the Act.

(122) Comment: One commenter stated that both the HSC trawl survey and spawning survey have generally experienced difficulty detecting changes in the regional HSC population, although the trawl survey measured some significant increases in response to management, and both surveys have shown some improvement since the early 2000s. The temporal and spatial extent of the spawning survey may be inadequate to detect population growth, and it may not be able to accommodate changing shoreline conditions caused by erosion and flooding. Similarly, the Virginia Tech trawl survey did not originally sample any stations within the Delaware Bay, and the scale and design of the survey may not be sufficient to detect population changes consistently. With quotas that have been specified at levels consistent with population rebuilding since Addendum III, the power of the existing surveys to detect population changes warrants review.

Our Response: We disagree. Evaluations of these surveys and their methods have been done in the past and continue to be done by the ASMFC. See *Our Response 46* regarding discontinuation of the Virginia Tech trawl survey.

(123) Comment: One commenter stated that existing data to evaluate trends in red knot weight gain at Delaware Bay are flawed. This commenter cited statements from a peer-reviewed report prepared for the ASMFC: ''existing data . . . are not adequate to evaluate their relative importance [late arrivals versus insufficient food supply] for any year of record . . . attempts to estimate growth rate based on independent samples of body mass are inherently flawed'' (USFWS 2003, p. 6). Based on these statements, this commenter concluded that all the weight gain data from 1997 to 2002 are flawed.

Our Response: While we agree that these statements appear in a USFWS report (2003, p. 6), we disagree with the conclusion of the commenter. On the previous page, this report states, ''there is agreement that a smaller percentage of rufa red knots are making threshold departure weights by the end of May in recent years,'' and goes on to discuss the two possible explanations (late arrivals and insufficient food supply), as well as different analytical methods for determining weight gains (USFWS 2003, p. 5). Although the available weight gain data set could not be used to determine the relative importance of late arrivals versus insufficient food supply, USFWS (2003, p. 6) concluded, ''the two hypotheses forwarded to explain changes in weight gain in Delaware Bay red knots are not mutually exclusive, but instead represent two factors which operate in tandem to affect departure weights from Delaware Bay.'' That these two factors (late arrivals and insufficient food supplies) worked synergistically to cause a decline in red knot departure weights was the same conclusion we reached in the proposed rule (78 FR 60024, pp. 60072, 60094). We agree that attempts to estimate growth rates (*i.e.,* rates of weight gain) from samples of birds taken over the course of the stopover period are problematic for the same reason cited by USFWS (2003, p. 6) (*i.e.,* uncertainty in arrival times of the birds in each sample), as we noted in the proposed rule (78 FR 60024, p. 60068). That said, we did not rely on this parameter (rates of weight gain over the course of the season) in our analysis. Instead, we relied on a different analytical parameter, the proportion of red knots above a threshold weight at the end of May, which we conclude is an appropriate index for trends in red knot weight gain since 1997, as discussed in the proposed rule (78 FR 60024, p. 60068) and in the Supplemental Document (Factor E—Reduced Food Availability—Horseshoe Crab Harvest—Link B, Part 2).

(124) Comment: One commenter, citing comments of individual Service representatives at meetings of various ASFMC bodies, concluded that Service managers find the basic red knot science is flawed.

Our Response: Various levels of uncertainty are associated with all scientific data. As an active participant in the ASMFC's management of the HSC fishery, Service representatives routinely engage in robust discussions regarding the strengths and weaknesses of available HSC and red knot data sets. Our current agency conclusions, based on a detailed analysis, are presented in the proposed rule (78 FR 60024, pp. 60063–60071) and the Supplemental Document (Factor E—Reduced Food Availability—Horseshoe Crab Harvest). Our key conclusion is that, although the causal chain from HSC harvest to red knot populations has several links associated with various levels of uncertainty, the weight of evidence supports these linkages, points to past harvest as a key factor in the decline of the red knot, and underscores the importance of continued HSC management to meet the needs of the red knot.

(125) Comment: One commenter reported anecdotal information that no red knots had been observed by mid-May 2014 in Delaware Bay, and that HSCs were unusually small and few.

Our Response: Red knot distribution and abundance within Delaware Bay vary considerably from year to year, and within years, based on weather, food availability, disturbance patterns, and other factors. Likewise, spatial and temporal patterns of HSC spawning are highly dependent on weather (especially water temperature) as well as habitat conditions. We may consider anecdotal data when no other data sets are available. However, in Delaware Bay, other data sets (*e.g.,* red knot peak counts, red knot total passage population estimates, red knot weight gain data, HSC spawning and trawl surveys) are available that are based on consistent methodologies, such that these data sets can be evaluated for long-term trends despite the naturally high variability in these natural systems. Preliminary reports from two of these data sets show both red knot abundance and weight gain in Delaware Bay continued at a somewhat improved level in 2014, for a third consecutive year (A. Dey pers. comm. June 30 and July 23, 2014).

(126) Comment: Several commenters stated that commercial fishermen from Maine through Florida have made great sacrifices for well over a decade of increasing regulation of the HSC bait fishery. Some fishermen went out of business, not only because the allowable harvest for bait was severely restricted, but also because the other fisheries that relied on HSCs as bait (*e.g.,* whelk/conch, eel, and minnow) experienced a bait shortage and spiraling bait costs. The Service maintains that a serious red knot population decline occurred in the 2000s caused primarily by reduced food availability from increased harvests of HSCs, but the Service also

acknowledges that red knot numbers appear to have stabilized in the past few years. Since knot numbers have stabilized, the restrictions placed on the HSC harvests (*i.e.,* the Fishery Management Plan and subsequent addenda, most recently the ARM framework), appear to have been effective in providing sufficient food resources for the shorebirds. The regulatory regime for the HSC fishery was designed to meet the feeding needs of migratory shorebirds. Based on the success of these harvest restrictions in stabilizing the knot population, the commercial industry has done its part. The commercial fishermen and related industries have borne a disproportionate share of protecting these migratory shorebirds.

Our Response: We agree that the actions of the ASMFC and the commercial fishing industry have been instrumental in halting the decline of the red knot's stopover population in Delaware Bay. In addition to restricting harvests through the Fisheries Management Plan (including the most recent iteration, the ARM), the ASMFC has taken several proactive steps to substantially reduce landings (see *Our Response 46* and proposed rule 78 FR 60024, p. 60064). We recognize and appreciate these efforts. As noted in the proposed rule (78 FR 60024, p. 60063), most data suggest that the volume of HSC eggs is currently sufficient to support the Delaware Bay's stopover population of red knots at its present size. However, it is not yet known if the egg resource will continue to adequately support red knot population growth over the next decade. Further, the red knot population in Delaware Bay appears to have stabilized at a notably low level. Therefore, sustained focus on protecting the red knot's food supply continues to be vital to the recovery of the red knot, and will be addressed during the recovery planning process. We intend to continue our active role in the ASMFC's management of the HSC fishery and do not anticipate recommending additional HSC harvest restrictions in Delaware Bay (beyond the ARM) as a result of listing the red knot (however, see *Our Response 46* regarding new uncertainty about the future of the ARM). Also see *Our Response 2* regarding economic and other implications of listing that we may not consider in listing determinations, and *Our Response 120* regarding bait prices.

(127) Comment: One commenter suggested that focusing efforts on the many foreign countries that continue to allow the legal and illegal hunting of red knots would be more productive in producing tangible results for the long-range survival of the species than imposing further restrictions in the United States where red knot hunting is no longer permitted.

Our Response: We agree that the effects of legal and illegal hunting on the red knot should continue to be assessed and minimized through international conservation partnerships. Work in this area has already begun and changes are in progress, as noted in the Supplemental Document (Factor B—Hunting). As noted in the proposed rule (78 FR 60024, p. 60053), we have no evidence that hunting was a driving factor in red knot population declines in the 2000s, or that hunting pressure is increasing. However, while not currently a threat in the United States, hunting is one of many threats affecting the knot. The Service will continue to enhance our work with partners across the range of the knot to reduce or ameliorate all ongoing or emerging threats.

(128) Comment: Several commenters believe that legal and illegal hunting of shorebirds is a major issue facing red knots and other shorebirds that migrate through the Caribbean basin and winter along the northern coast of South America, and that the proposed rule understates the overall importance of direct mortality from hunting on driving population change in shorebird populations. These commenters cite recent evidence suggesting that at least 2,000 red knots pass through the Guianas during southbound migration and that many birds likely stage in this area and coastal Venezuela during northbound migration. Further, documented hunting pressure is significant in Suriname, with estimates that between 20,000 and 100,000 shorebirds are taken annually. While the proposed rule suggests that Suriname is not likely an important area for red knot, there are suitable habitats and observations of hundreds of birds from this country. Likewise, another commenter asked how the Service can find that individual hunting mortality does not seem to affect the population as a whole if there are no data on hunting anywhere, especially illegal hunting.

Our Response: We appreciate this new information and have incorporated it into the Supplemental Document (Migration and Winter Habitats; Population Surveys and Estimates; Factor B—Hunting—Caribbean and South America). We have made minor changes to our conclusions regarding the overall importance of hunting as a threat to the red knot. While only low to moderate red knot mortality is documented, we acknowledge that additional undocumented mortality is likely. The findings of Watts (2010) suggest that even moderate (hundreds of birds) direct human-caused mortality may begin to have population-level effects on the red knot. However, we do not have adequate information to reasonably know if hunting mortality is or was previously at this level in the Guianas (CSRPN 2013; Niles 2012b; D. Mizrahi pers. comm. October 16, 2011; Harrington 2001, p. 22), though we conclude that it was likely much lower (tens of birds) in the Caribbean islands (G. Humbert pers. comm. November 29, 2013; W. Burke pers. comm. October 12, 2011; A. Levesque pers. comm. October 11, 2011; Hutt and Hutt 1992, p. 70). We expect mortality of individual knots from hunting to continue into the future, but at stable or decreasing levels due to the recent international attention to shorebird hunting.

(129) Comment: One commenter stated that red knots are still heavily hunted in many places and in many places are called ''snipe.'' Snipe are legally hunted, but the average person in the field cannot tell the difference between a red knot and a snipe. This commenter contends that the Service has data on hunted red knots from the bands returned during snipe hunts, and the August 13, 2011, shorebird hunting workshop summary shows close to 500,000 shorebirds, including snipes and red knots, have been killed by hunters in the Caribbean and South America in just a few years. Further, one red knot researcher has in the past (2005) publicly denied any hunting of shorebirds, but has full knowledge of the hunting.

Our Response: We disagree with the conclusions of the commenter. In the proposed rule (Rufa Red Knot Ecology and Abundance, p. 4), we discussed the numerous common names for red knot that were historically used by hunters in the United States. We agree that red knots have been historically called snipe, and that hunting of Wilson's snipe (*Gallinago delicata*) (previously called common snipe (*Gallinago gallinago*)) is still legal in the United States (USFWS 2012c); however, we have no data to suggest that red knots are being killed in the United States incidental to the legal hunting of Wilson's snipe. Lowery (1974, p. 309) notes that, even in winter plumage, the red knot's shape and bill make this species comparatively easy to distinguish from common snipe and other similarly sized shorebirds. Snipe occupy different habitats (flooded, shallow emergent marsh) than do red knots (exposed flats), and snipe are

solitary while red knots tend to occur in flocks (C. Dwyer pers. comm. July 18, 2014). Although the margins of error are large, the best available estimates (Raftovich *et al.* 2014, p. 54) show very few snipe hunters in the Atlantic Flyway States (C. Dwyer pers. comm. July 18, 2014).

We agree that a rough understanding of red knot mortality levels from hunting in South America has come from band returns, as discussed in the proposed rule (78 FR 60024, pp. 60050–60052) and the Supplemental Document (Factor B—Hunting). Throughout our analysis of hunting, we relied heavily on the 2011 shorebird hunting workshop report (USFWS 2011e), and agree that this report documents high levels of shorebird hunting in some parts of the Caribbean and South America. However, much of the information in this report is not specific to red knot. Thus, we supplemented this information with data from other sources. We cannot respond to comments about the public statements of any particular red knot researcher. However, based on our review, we conclude that most of the international red knot research and conservation community has become gradually aware of the hunting issue over the past decade, and now regard it as an important area for conservation actions, many of which are underway. See *Our Responses 127* and *128* above for additional information on our conclusions regarding hunting as a threat to red knot.

(130) Comment: Several commenters contend that the Service must revise its oil- and gas-related findings in the proposed rule to more accurately state that (1) based upon the best available data and information, oil spills and leaks have had, at most, minimal impacts, and there is no available information to suggest that the risk of future oil spills is likely to be other than minimal; and (2) there is no available information demonstrating that permitted oil and gas activities have had any adverse effects on the rufa red knot, and such activities do not pose a threat to the species. Further, based upon the current record, there is no information available to support a conclusion that potential future spills are ''likely'' to impact red knots.

Our Response: We agree that documented effects of oil and gas extraction and transport on red knots and their habitats to date have been minimal, as stated in the proposed rule (78 FR 60024, p. 60087). However, we disagree that the future risk is minimal. Based on the review and analysis we presented in the proposed rule (78 FR 60024, pp. 60083–60087), we found that red knots are exposed to large-scale petroleum extraction and transportation operations in many key wintering and stopover habitats. We also found that a number of spills and leaks have occurred in red knot areas. The minimal effects to red knots from these past incidents is attributable to fortunate (for the knots) timing or weather conditions, and we conclude that such fortunate circumstances are unlikely to accompany all future spills and leaks affecting red knot habitats. Thus, we continue to conclude that high potential exists for small or medium spills to impact moderate numbers of red knots or their habitats, such that one or more such events is likely over the next few decades, based on the proximity of key red knot habitats to high-volume oil operations. A major spill affecting habitats in a key red knot concentration area while knots are present is less likely but would be expected to cause population-level impacts.

(131) Comment: Several commenters stated that the proposed rule relied on inappropriate and nonscientific sources to erroneously associate mosquito control adulticides (specifically the pesticide fenthion) with adverse effects to birds, and that there is no scientific evidence to link the bird deaths referenced in the proposed rule to a particular pesticide or mosquito control operation. In addition, the proposed rule erroneously stated that fenthion had been banned by the U.S. Environmental Protection Agency (USEPA), when actually the USEPA regulates, but does not ban, pesticides. In fact, the manufacturer of fenthion voluntarily cancelled its label for mosquito control, thereby withdrawing it from the mosquito control market. Labels for other uses of fenthion were not affected by the withdrawal of the mosquito control label.

Our Response: Although we believed the data to be accurate at the time we reviewed and used them in the proposed rule (78 FR 60024, p. 60088), we could not, upon further review, verify that fenthion caused the mortality of piping plovers. We agree that we erroneously misstated that fenthion had been banned by the USEPA. We have withdrawn the Contaminants—Florida section entirely from the final rule and Supplemental Document.

(132) Comment: One commenter asked what data support the emerging threat on the breeding grounds since the Service states that comprehensive counts from the breeding grounds are not available because nesting knots are thinly distributed across a huge and remote area of the Arctic.

Our Response: First, we conclude that changing relationships between red knots and their predators are likely a part of overall ecosystem changes due to rapid arctic warming. Although there is high uncertainty about how such ecosystem changes will unfold, there is high certainty that ecosystem changes are already occurring and will continue. We have updated the Supplemental Document (Factor A—Arctic Warming) with the IPCC's new findings of early warning signs that arctic ecosystems are already experiencing irreversible regime shifts (Summary for Policymakers *in* IPCC 2014, p. 12). Given the sensitivity of red knots to predation rates on the breeding grounds (78 FR 60024, p. 60057), we conclude that these ecosystem changes constitute a threat to the red knot.

Second, Fraser *et al.* (2013, entire) found preliminary evidence for one mechanism by which ecosystem changes may have already impacted red knot populations—through rodent-mediated changes in predation pressure. Additional studies would be needed to support this hypothesis (Fraser *et al.* 2013, p. 13). However, we have updated the Supplemental Document (Factor C—Predation—Breeding Areas) with new information that, although factors other than climate change may also be important, the documented collapse or dampening of rodent cycles in some parts of the Arctic over the last 20 to 30 years can be attributed to climate change with ''high confidence'' (Chapter 28 *in* IPCC 2014, p. 14). Thus, we conclude that the geographic extent and duration of future interruptions to these rodent cycles is likely to intensify as the arctic climate continues to change. Disruptions in the rodent-predator cycle pose a substantial threat to red knot populations, as they may result in prolonged periods of very low red knot reproductive output. Red knot counts from the breeding grounds are not necessary to reach this conclusion.

(133) Comment: One commenter asked how confident the Service is in dismissing predation in the geographically large nonbreeding portion of the red knot's range.

Our Response: We disagree that we have ''dismissed'' predation in nonbreeding areas (see proposed rule 78 FR 60024, pp. 60055–60057 and Supplemental Document section Factor C—Predation—Nonbreeding Areas), and conclude that predation in these areas is likely to exacerbate other threats to red knot populations.

(134) Comment: Several commenters noted that areas offshore of Delaware Bay are being studied for potential installation of wind turbines. The Wind

Energy Areas (WEA) proposed for the States of Delaware and Maryland appear to be placed precisely in the path of the red knots arriving in May after flying nonstop from northeast South America.

Our Response: We have updated the Supplemental Document to reference these WEAs, as well as leases that have been, or are scheduled to be issued for development of offshore wind energy. Our analysis of risks to red knots from the likely future development of wind energy in the Atlantic OCS is presented in the Supplemental Document, with only minor changes from the proposed rule (see *Our Responses 21* through *25*).

(135) Comment: One commenter stated that, while the Service may ''expect ongoing improvements in turbine siting, design, and operation [to] help minimize bird collision hazards'' in the future, there is no indication this has happened or will happen. There is no Federal, State, or local ability or willingness to regulate wind energy projects in Texas or to deter poor siting decisions through prosecution of Migratory Bird Treaty Act violations. Thus, projects continue to be built in areas where risk to avian resources, including red knots, is potentially high.

Our Response: The commenter is correct that the Service cannot control or regulate the development of projects that lack a Federal nexus, including wind energy projects in any State. However, we do work with project developers to find locations that pose less of a risk to migratory birds and other species, and to find methods to reduce the risk of collisions during operation. This voluntary process is informed by an improved understanding, through research, of migratory bird behavior and project design. Researchers from a wide variety of government agencies, academic institutions, and nongovernmental organizations continue to study factors related to birds' wind turbine collision risks. As the science evolves and our understanding of these risk factors increases, measures are developed and implemented to help minimize bird fatalities. Specifically, research and post construction observations have led companies to strictly control lighting at their projects, thus reducing the collision risk for night migrating birds. More information is available on our Web site at *http://www.fws.gov/windenergy/.*

(136) Comment: One commenter stated that, though the Service is ''not aware of any documented red knot mortalities at any wind turbines to date,'' it is not appropriate to make any conclusion based on a lack of data. This commenter contends that the wind energy projects along the Texas coast may represent the highest risk exposure red knots face from wind energy anywhere, yet data are either not being gathered or not being shared by these projects. In either case, effectively zero data are available on which to base a conclusion, and a precautionary principle should apply since it is well known that wind energy installations have the potential to be sources of mortality. Further, without data it seems unjustifiable to assume that this is either currently insignificant or that the cumulative impacts from current and future buildout in the area will be insignificant.

Our Response: We have revised the Supplemental Document (Factor E—Wind Energy Development—Terrestrial) with new findings from Loss *et al.* (2013, pp. 201, 202, 207) that accessibility to relevant data remains a problem, particularly for the tallest (greater than 262 ft (80 m)) turbines, because most of the mortality data are in industry reports that are not subjected to scientific peer review or available to the public. We have also revised the Supplemental Document to conclude that, based on the higher frequency and lower altitudes of red knot flights along the coasts, as well as the coastal location of most large, known U.S. nonbreeding red knot roosting and foraging areas, collision and displacement risks per turbine (notwithstanding differences in specific factors such as turbine size, design, operation, siting) are likely higher along the coasts than in areas either far offshore or far inland. In the Supplemental Document (Factor E—Wind Energy—Summary) we state that we do not believe any turbine related mortality is causing subspecies level effects. However our primary concern is that as buildout of wind energy infrastructure progresses, especially near the coasts, mortality from turbine collisions may contribute to a subspecies-level effect due to the red knot's modeled vulnerability to low levels of mortality (Watts 2010, p. 1).

(137) Comment: One commenter stated that red knots will not be killed by wind turbines. The claim of red knot mortality will be used to stop the placement of wind turbines at a time when clean energy is needed.

Our Response: We disagree that red knots will not be killed and that risks to red knots will prevent wind energy development (see *Comments 21* and *22*). The Department of the Interior supports the development of wind energy, and the Service works to ensure that such development is bird- and habitat-friendly (USFWS 2012d; Department of Energy and Bureau of Ocean Energy Management, Regulation, and Enforcement 2011; Manville 2009).

(138) Comment: Several commenters requested that we recognize North Carolina's proactive coastal oversight at the State and local levels, which has resulted in the construction and maintenance of high-quality sandy shorelines via beach nourishment and inlet relocation. These commenters contend that North Carolina has done a great deal to create the right balance between use of beaches and protection of wildlife and that the State's regulatory approach to coastal storm damage reduction projects, borrow source and native beach compatibility, and inlet location management is ensuring these sandy habitat areas continue functioning in multispecies resilient manners. One commenter stated that North Carolina does not allow hard structures.

Our Response: We recognize that North Carolina is working to sustainably manage sandy habitats to meet multispecies resiliency. We have revised the Supplemental Document (Factor D—United States—Coastal Management) to recognize North Carolina's Technical Standards for Beach Fill (15A NCAC 07H .0312), which address sediment compatibility of material proposed to be placed on beaches. We have also revised the Supplemental Document (Factor A—U.S. Shoreline Stabilization—Hard Structures) to recognize that, as a result of a 1985 State prohibition on new hard structures, there are only a few permanent, hard stabilization structures along North Carolina's beaches. Despite such measures, however, some red knot habitats in North Carolina are vulnerable to degradation due to beach hardening practices. For example, 2011 legislation authorized an exception for construction of up to four new terminal groins in North Carolina (Rice 2012a, p. 8, discussed at 78 FR 60024, p. 600369), and some of North Carolina's coastal communities have begun seeking authorization from the State legislature for additional hard structures. Although the construction of new hard stabilization structures remains highly restricted in North Carolina, extensive temporary structures have been utilized including sand tube groins, sand tube bulkheads, and approximately 350 sandbag revetments (Rice 2012a, p. 9). Finally, beach nourishment and beach bulldozing are prevalent in North Carolina. Most of these beaches are nourished at least every 3 years, some as often as every year (K. Matthews pers. comm. May 2, 2014). Even with State regulations to ensure sediment

compatibility, such frequent nourishment can interfere with natural coastal processes and affect shorebird habitat (*e.g.,* benthic prey availability) (K. Matthews pers. comm. May 2, 2014; Zajac and Whitlatch 2003, p. 101; Greene 2002, p. 25; Peterson and Manning 2001, p. 1; Hurme and Pullen 1988, p. 127). However, it is noted that beach nourishment can be important in establishing or maintaining beachfront red knot habitat in some areas. Depending on the site and situation, beach nourishment can be beneficial or detrimental to red knot habitat (see *Comment 58*). The negative effects to habitat associated with beach nourishment are expected typically to be short term, though repeated renourishing may prolong the adverse effects to habitat.

Determination

Section 4 of the Act (16 U.S.C. 1533), and its implementing regulations at 50 CFR part 424, set forth the procedures for adding species to the Federal Lists of Endangered and Threatened Wildlife and Plants. Under section 4(a)(1) of the Act, we may list a species based on (A) The present or threatened destruction, modification, or curtailment of its habitat or range; (B) Overutilization for commercial, recreational, scientific, or educational purposes; (C) Disease or predation; (D) The inadequacy of existing regulatory mechanisms; or (E) Other natural or manmade factors affecting its continued existence. Listing actions may be warranted based on any of the above threat factors, singly or in combination.

We have carefully assessed the best scientific and commercial information available regarding the past, present, and future threats to the rufa red knot. We have identified substantial threats to the red knot attributable to Factors A, B, C, and E. The primary driving threats to the red knot are from habitat loss and degradation due to sea level rise, shoreline hardening, and Arctic warming (Factor A), and reduced food availability and asynchronies (mismatches) in the annual cycle (Factor E). Other factors may cause additive red knot mortality. Individually these other factors are not expected to have subspecies level effects; however, cumulatively, these factors could exacerbate the effects of the primary threats if they further reduce the species' resiliency. These secondary factors include hunting (Factor B); predation in nonbreeding areas (Factor C); and human disturbance, oil spills, and wind energy development, especially near the coasts (Factor E). All of these factors affect red knots across their current range and are expected to continue or intensify into the future.

Conservation efforts are being implemented in many areas of the red knot's range (see Factors A, B, C, and E in the Supplemental Document—Summary of Factors Affecting the Species). For example, in 2012, the ASMFC adopted the ARM (ASMFC 2012e, entire) for the management of the HSC population in the Delaware Bay Region to meet the dual objectives of maximizing crab harvest and red knot population growth. In addition, regulatory mechanisms exist that provide protections for the red knot directly (*e.g.,* MBTA protections against take for scientific study or by hunting) or through regulation of activities that threaten red knot habitat (*e.g.,* section 404 of the Clean Water Act, Rivers and Harbors Act, Coastal Barrier Resources Act, Coastal Zone Management Act, and State regulation of shoreline stabilization and coastal development) (see Supplemental Document—Summary of Factors Affecting the Species—Factor D). While these conservation efforts and existing regulatory mechanisms reduce some threats to the red knot (see Factor D discussion in the Supplemental Document—Summary of Factors Affecting the Species), significant risks to the subspecies remain.

Red knots migrate annually between their breeding grounds in the Canadian Arctic and several wintering regions, including the Southeast United States, the Northeast Gulf of Mexico, northern Brazil, and Tierra del Fuego at the southern tip of South America. During both the spring and fall migrations, red knots use key staging and stopover areas to rest and feed. This life history strategy makes this species inherently vulnerable to numerous changes in the timing of quality food (Factor E) and habitat resource availability (Factor A) across its geographic range. While a few examples suggest the species has some flexibility in migration strategies, the full scope of the species' adaptability to changes in its annual cycle is unknown.

The Act defines an endangered species as any species that is ''in danger of extinction throughout all or a significant portion of its range'' and a threatened species as any species ''that is likely to become endangered throughout all or a significant portion of its range within the foreseeable future.'' We find that the rufa red knot meets the definition of a threatened species due to the present and likely continued destruction and modification of habitat and curtailment of the species' range driven by the effects of climate change, and reduced food resources and further asynchronies in its annual cycle that result in the species' reduced redundancy, resiliency, and representation. We base this determination on the immediacy, severity, and scope of the threats described above. Therefore, on the basis of the best scientific and commercial data available, we are listing the rufa red knot as a threatened species in accordance with sections 3(6) and 4(a)(1) of the Act. We find that an endangered species status is not appropriate for the rufa red knot because, while there is uncertainty as to how long it may take some of the climate-induced changes to manifest in population-level effects to the rufa red knot, we find that the best available data suggest the rufa red knot is not at a high risk of a significant decline in the near term such that it is currently in danger of extinction and, therefore, meeting the definition of an endangered species under the Act. However, should the reduction in redundancy, resiliency, or representation culminate in an abrupt and large loss, or initiation of a steep rate of decline, of reproductive capability and success (corresponding to Factor E) or we subsequently find that the species does not have the adaptive capacity to adjust to shifts in its food and habitat resources (corresponding to Factor E), then the red knot would be at higher risk of a significant decline in the near term and we would reassess whether it meets the definition of an endangered species under the Act.

Under the Act and our implementing regulations, a species may warrant listing if it is endangered or threatened throughout all or a significant portion of its range. The rufa red knot is wide-ranging, and the threats occur throughout its range. Therefore, we assessed the status of the subspecies throughout its entire range. The threats to the survival of the subspecies are not restricted to any particular significant portion of that range. Accordingly, our assessment and proposed determination applies to the subspecies throughout its entire range.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing results in public awareness, and conservation by Federal, State, tribal, and local agencies, private organizations, and individuals. The Act encourages cooperation with the States and requires that recovery actions be carried out for all listed

species. The protection required by Federal agencies and the prohibitions against certain activities are discussed, in part, below.

The primary purpose of the Act is the conservation of endangered and threatened species and the ecosystems upon which they depend. The ultimate goal of such conservation efforts is the recovery of these listed species, so that they no longer need the protective measures of the Act. Subsection 4(f) of the Act requires the Service to develop and implement recovery plans for the conservation of endangered and threatened species. The recovery planning process involves the identification of actions that are necessary to halt or reverse the species' decline by addressing the threats to its survival and recovery. The goal of this process is to restore listed species to a point where they are secure, self-sustaining, and functioning components of their ecosystems.

Recovery planning includes the development of a recovery outline shortly after a species is listed and preparation of a draft and final recovery plan. The recovery outline guides the immediate implementation of urgent recovery actions and describes the process to be used to develop a recovery plan. Revisions of the plan may be done to address continuing or new threats to the species, as new substantive information becomes available. The recovery plan identifies site-specific management actions that set a trigger for review of the five factors that control whether a species remains endangered or may be downlisted or delisted, and methods for monitoring recovery progress. Recovery plans also establish a framework for agencies to coordinate their recovery efforts and provide estimates of the cost of implementing recovery tasks. Recovery teams (composed of species experts, Federal and State agencies, nongovernmental organizations, and stakeholders) are often established to develop recovery plans. When completed, the recovery outline, draft recovery plan, and the final recovery plan will be available on our Web site (*http://www.fws.gov/endangered*), or from the New Jersey Field Office (see **FOR FURTHER INFORMATION CONTACT**).

Implementation of recovery actions generally requires the participation of a broad range of partners, including other Federal agencies, States, tribes, nongovernmental organizations, businesses, and private landowners. Examples of recovery actions include habitat restoration (*e.g.,* restoration of native vegetation), research, captive propagation and reintroduction, and outreach and education. The recovery of many listed species cannot be accomplished solely on Federal lands because their range may occur primarily or solely on non-Federal lands. To achieve recovery of these species requires cooperative conservation efforts on private, State, and Tribal lands. We also recognize that for some species, measures needed to help achieve recovery may include some that are of a type, scope, or scale that is independent of land ownership status and beyond the control of cooperating landowners.

Following publication of this final listing rule, additional funding for recovery actions will be available from a variety of sources, including Federal budgets, State programs, and cost-share grants for non-Federal landowners, the academic community, and nongovernmental organizations. In addition, pursuant to section 6 of the Act, the States of Alabama, Arkansas, Colorado, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, New Hampshire, New Jersey, New York, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Vermont, Virginia, West Virginia, Wisconsin, and Wyoming and Puerto Rico and the U.S. Virgin Islands would be eligible for Federal funds to implement management actions that promote the protection or recovery of the rufa red knot. Information on our grant programs that are available to aid species recovery can be found at: *http://www.fws.gov/grants.*

Please let us know if you are interested in participating in recovery efforts for the rufa red knot. Additionally, we invite you to submit any new information on this species whenever it becomes available and any information you may have for recovery planning purposes (see **FOR FURTHER INFORMATION CONTACT**).

Section 7(a) of the Act requires Federal agencies to evaluate their actions with respect to any species that is listed as an endangered or threatened species and with respect to its critical habitat, if any is designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR part 402. If a species is listed subsequently, section 7(a)(2) of the Act requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of the species or destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into consultation with the Service.

Federal agency actions within the species' habitat that may require conference or consultation or both as described in the preceding paragraph include management and landscape-altering activities on Federal lands administered by the Department of Defense, the Service, and NPS; issuance of section 404 Clean Water Act permits and shoreline stabilization projects implemented by the U.S. Army Corps of Engineers; construction and management of gas pipeline rights-of-way by the Federal Energy Regulatory Commission; leasing of Federal waters by BOEM for the construction of wind turbines; and construction and maintenance of roads or highways by the Federal Highway Administration.

Under section 4(d) of the Act, the Service has discretion to issue regulations that we find necessary and advisable to provide for the conservation of threatened species. The Act and its implementing regulations set forth a series of general prohibitions and exceptions that apply to threatened wildlife. The prohibitions of section 9(a)(1) of the Act, as applied to threatened wildlife and codified at 50 CFR 17.31, make it illegal for any person subject to the jurisdiction of the United States to take (which includes harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect; or to attempt any of these) threatened wildlife within the United States or on the high seas. In addition, it is unlawful to import; export; deliver, receive, carry, transport, or ship in interstate or foreign commerce in the course of commercial activity; or sell or offer for sale in interstate or foreign commerce any listed species. It is also illegal to possess, sell, deliver, carry, transport, or ship any such wildlife that has been taken illegally. Certain exceptions apply to employees of the Service, NMFS, other Federal land management agencies, and State conservation agencies.

We may issue permits to carry out otherwise prohibited activities involving threatened wildlife under certain circumstances. Regulations governing permits are codified at 50 CFR 17.32. With regard to threatened wildlife, a permit may be issued for the following purposes: for scientific purposes, to enhance the propagation or survival of the species, and for incidental take in connection with otherwise lawful activities. There are also certain statutory exemptions from

the prohibitions, which are found in sections 9 and 10 of the Act.

(1) It is our policy, as published in the **Federal Register** on July 1, 1994 (59 FR 34272), to identify to the maximum extent practicable at the time a species is listed, those activities that would or would not constitute a violation of section 9 of the Act. The intent of this policy is to increase public awareness of the effect of a final listing on proposed and ongoing activities within the range of a listed species.

Based on the best available information, the following activity is unlikely to result in a violation of section 9, if this activity is carried out in accordance with existing regulations and permit requirements; this list is not comprehensive: Harvest of HSC in accordance with the ARM, provided the ARM is implemented as intended (*e.g.,* including implementation of necessary monitoring programs), and enforced.

Based on the best available information, the following activities may potentially result in a violation of section 9 the Act; this list is not comprehensive:

(1) Unauthorized collecting, handling, possessing, selling, delivering, carrying, or transporting of the species, including import or export across State lines and international boundaries, except for properly documented antique specimens of these taxa at least 100 years old, as defined by section 10(h)(1) of the Act;

(2) introduction of nonnative species that compete with or prey upon the rufa red knot, or that cause declines of the red knot's prey species;

(3) unauthorized modification of intertidal habitat that regularly supports concentrations of rufa red knots during the wintering or stopover periods; and

(4) unauthorized discharge of chemicals or fill material into any waters along which the rufa red knot is known to occur.

Questions regarding whether specific activities would constitute a violation of section 9 of the Act should be directed to the New Jersey Field Office (see **FOR FURTHER INFORMATION CONTACT**). Requests for copies of the regulations concerning listed animals and general inquiries regarding prohibitions and permits may be addressed to the U.S. Fish and Wildlife Service, Endangered Species Permits, 300 Westgate Center Drive, Hadley, MA, 01035 (telephone 413–253–8615; facsimile 413–253–8482).

Required Determinations

National Environmental Policy Act (42 U.S.C. 4321 et seq.)

We have determined that environmental assessments and environmental impact statements, as defined under the authority of the National Environmental Policy Act need not be prepared in connection with listing a species as an endangered or threatened species under the Endangered Species Act. We published a notice outlining our reasons for this determination in the **Federal Register** on October 25, 1983 (48 FR 49244).

Government-to-Government Relationship with Tribes

In accordance with the President's memorandum of April 29, 1994 (Government-to-Government Relations with Native American Tribal Governments; 59 FR 22951), Executive Order 13175 (Consultation and Coordination with Indian Tribal Governments), and the Department of the Interior's manual at 512 DM 2, we readily acknowledge our responsibility to communicate meaningfully with recognized Federal Tribes on a government-to-government basis. In accordance with Secretarial Order 3206 of June 5, 1997 (American Indian Tribal Rights, Federal-Tribal Trust Responsibilities, and the Endangered Species Act), we readily acknowledge our responsibilities to work directly with tribes in developing programs for healthy ecosystems, to acknowledge that tribal lands are not subject to the same controls as Federal public lands, to remain sensitive to Indian culture, and to make information available to tribes. We coordinated with applicable Tribes throughout the U.S. range of the rufa red knot, but received no information indicating that the species is known to occur on Tribal lands.

References Cited

A complete list of references cited in this rulemaking is available on online at *http://www.regulations.gov* under Docket Number FWS–R5–ES–2013–0097 and upon request from the New Jersey Field Office (see **FOR FURTHER INFORMATION CONTACT**).

Authors

The primary authors of this final rule are the staff members of the New Jersey Field Office (see **FOR FURTHER INFORMATION CONTACT**).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

Regulation Promulgation

Accordingly, we amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as follows:

PART 17—[AMENDED]

■ 1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 1531–1544; and 4201–4245, unless otherwise noted.

■ 2. In § 17.11(h), add an entry for ''Knot, rufa red'' to the List of Endangered and Threatened Wildlife in alphabetical order under Birds to read as set forth below:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
*		*	*	*	*	*	*
BIRDS.							
*		*	*	*	*	*	*
Knot, rufa red.	*Calidris canutus rufa*.	Argentina, Aruba, Bahamas, Barbados, Belize, Brazil, British Virgin Islands, Canada, Cayman Islands, Chile, Colombia, Costa Rica, Cuba, Dominican Republic, El Salvador, France (Guadeloupe, French Guiana, Martinique), Guatemala, Guyana, Haiti, Jamaica, Mexico, Panama, Paraguay, Suriname, Trinidad and Tobago, Uruguay, Venezuela, U.S.A. (AL, AR, CO, CT, DC, DE, FL, GA, IA, IL, IN, KS, KY, LA, MA, MD, ME, MI, MN, MO, MS, MT, NC, ND, NE, NH, NJ, NY, OH, OK, PA, RI, SC, SD, TN, TX, VA, VT, WI, WV, WY, Puerto Rico, U.S. Virgin Islands).	Entire	T	855	N/A	N/A
*		*	*	*	*	*	*

* * * * *

Dated: November 21, 2014.

Matthew Huggler,

Acting Director, U.S. Fish and Wildlife Service.

[FR Doc. 2014–28338 Filed 12–10–14; 8:45 am]

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Part III

Environmental Protection Agency

40 CFR Part 98

Greenhouse Gas Reporting Program: Addition of Global Warming Potentials to the General Provisions and Amendments and Confidentiality Determinations for Fluorinated Gas Production; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 98

[EPA–HQ–OAR–2009–0927; FRL–9919–70–OAR]

RIN 2060–AR78

Greenhouse Gas Reporting Program: Addition of Global Warming Potentials to the General Provisions and Amendments and Confidentiality Determinations for Fluorinated Gas Production

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is adding chemical-specific and default global warming potentials (GWPs) for a number of fluorinated greenhouse gases (F–GHGs) and fluorinated heat transfer fluids (F–HTFs) to the general provisions of the Greenhouse Gas Reporting Rule. Currently, these fluorinated GHGs and HTFs are not assigned GWPs under the rule. The changes will increase the completeness and accuracy of the carbon dioxide (CO_2)-equivalent emissions calculated and reported by suppliers and emitters of fluorinated GHGs and HTFs. The EPA is also making conforming changes to the provisions for the Electronics Manufacturing and Fluorinated Gas Production source categories. In addition, the EPA is amending certain provisions of the Fluorinated Gas Production source category to reduce the level of detail in which emissions are reported, eliminate the mass-balance emission calculation method, and clarify the emission factor method. These amendments also include an alternative verification approach for this source category in lieu of collecting certain data elements for which the EPA has identified disclosure concerns and for which the reporting deadline was deferred until March 31, 2015. In addition, this action establishes confidentiality determinations for certain reporting requirements of the Fluorinated Gas Production source category.

DATES: This final rule is effective on January 1, 2015.

ADDRESSES: 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.,* confidential business information (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 Air Docket, 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: Carole Cook, Climate Change Division, Office of Atmospheric Programs (MC–6207J), Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460; telephone number: (202) 343–9263; fax number: (202) 343–2342; email address: *GHGReporting@epa.gov.* For technical information, please go to the Greenhouse Gas Reporting Rule Program Web site at *http://www.epa.gov/ghgreporting/index.html.* To submit a question, select Rule Help Center, followed by Contact Us.

Worldwide Web (WWW). In addition to being available in the docket, an electronic copy of this final rule will also be available through the WWW. Following the Administrator's signature, a copy of this action will be posted on the EPA's Greenhouse Gas Reporting Program rule Web site at *http://www.epa.gov/ghgreporting/index.html.*

SUPPLEMENTARY INFORMATION:

Regulated Entities. The Administrator determined that this action is subject to the provisions of Clean Air Act (CAA) section 307(d). See CAA section 307(d)(1)(V) (the provisions of CAA section 307(d) apply to ''such other actions as the Administrator may determine''). These are amendments to existing regulations and affect emitters and suppliers of fluorinated GHGs. Regulated categories and examples of affected entities include those listed in Table 1 of this preamble.

TABLE 1—EXAMPLES OF AFFECTED ENTITIES BY CATEGORY

Category	NAICS	Examples of affected facilities
Electrical Equipment Use	221121	Electric bulk power transmission and control facilities.
Electrical Equipment Manufacture or Refurbishment.	33531	Power transmission and distribution switchgear and specialty transformers manufacturing facilities.
Electronics Manufacturing	334111	Microcomputers manufacturing facilities.
	334413	Semiconductor, photovoltaic (solid-state) device manufacturing facilities.
	334419	Liquid crystal display unit screens manufacturing facilities.
	334419	Micro-electro-mechanical systems manufacturing facilities.
Fluorinated Gas Production	325120	Industrial gases manufacturing facilities.
Importers and Exporters of Pre-charged Equipment and Closed-Cell Foams.	423730	Air-conditioning equipment (except room units) merchant wholesalers.
	333415	Air-conditioning equipment (except motor vehicle) manufacturing.
	336391	Motor vehicle air-conditioning manufacturing.
	423620	Air-conditioners, room, merchant wholesalers.
	443111	Household appliance stores.
	423730	Automotive air-conditioners merchant wholesalers.
	326150	Polyurethane foam products manufacturing.
	335313	Circuit breakers, power, manufacturing.
	423610	Circuit breakers merchant wholesalers.
Magnesium Production	331419	Primary refiners of nonferrous metals by electrolytic methods.

Table 1 of this preamble is not intended to be exhaustive, but rather provides a guide for readers regarding facilities likely to be affected by this action. Types of facilities different from those listed in the table could also be subject to reporting requirements. To determine whether you are affected by this action, you should carefully examine the applicability criteria found in 40 CFR part 98, subpart A or the relevant criteria in subparts I, L, T, DD,

SS, OO, and QQ. If you have questions regarding the applicability of this action to a particular facility, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

What is the effective date? The final rule is effective on January 1, 2015. Section 553(d) of the Administrative Procedure Act (APA), 5 U.S.C. Chapter 5, generally provides that rules may not take effect earlier than 30 days after they are published in the **Federal Register**. EPA is issuing this final rule under section 307(d)(1) of the Clean Air Act, which states: ''The provisions of section 553 through 557 * * * of Title 5 shall not, except as expressly provided in this section, apply to actions to which this subsection applies.'' Thus, section 553(d) of the APA does not apply to this rule. EPA is nevertheless acting consistently with the purposes underlying APA section 553(d) in making this rule effective on January 1, 2015. Section 5 U.S.C. 553(d)(3) allows an effective date less than 30 days after publication ''as otherwise provided by the agency for good cause found and published with the rule.'' As explained below, EPA finds that there is good cause for this rule to become effective on January 1, 2015, even though this may result in an effective date fewer than 30 days from date of publication in the **Federal Register**.

While this action is being signed prior to December 1, 2014, there is likely to be a significant delay in the publication of this rule as it contains complex equations and tables and is relatively long. As an example, then-Acting Administrator Bob Perciasepe signed the proposed 2013 Revisions Rule on March 8, 2013, but the proposed rule was not published in the **Federal Register** until April 2, 2013.

The purpose of the 30-day waiting period prescribed in 5 U.S.C. 553(d) is to give affected parties a reasonable time to adjust their behavior and prepare before the final rule takes effect. To employ the 5 U.S.C. 553(d)(3) ''good cause'' exemption, an agency must ''balance the necessity for immediate implementation against principles of fundamental fairness which require that all affected persons be afforded a reasonable amount of time to prepare for the effective date of its ruling.'' [1] Where, as here, the final rule will be signed and made available on the EPA Web site more than 30 days before the effective date, but where the publication is likely to be delayed due to the complexity and length of the rule, the regulated entities are afforded this reasonable amount of time. This is particularly true given that most of the revisions being made in this package provide flexibilities to sources covered by the reporting rule or require no additional action by affected sources. We do not anticipate that finalizing the GWPs in this action will expand the set of facilities required to report under the Greenhouse Gas Reporting rule. However, in the event that this occurs, these amendments include flexibility provisions such as Best Available Monitoring Methods. We balance these circumstances with the need for the amendments to be effective by January 1, 2015; a delayed effective date would result in regulatory uncertainty, program disruption, and an inability to have the amendments (many of which clarify requirements, relieve burden, and/or are made at the request of the regulated facilities) effective for the 2015 reporting year. Accordingly, we find good cause exists to make this rule effective on January 1, 2015, consistent with the purposes of 5 U.S.C. 553(d)(3).

Judicial Review. Under CAA section 307(b)(1), judicial review of this final rule is available only by filing a petition for review in the U.S. Court of Appeals for the District of Columbia Circuit (the Court) by February 9, 2015. Under CAA section 307(d)(7)(B), only an objection to this final rule that was raised with reasonable specificity during the period for public comment can be raised during judicial review. Section 307(d)(7)(B) of the CAA also provides a mechanism for the EPA to convene a proceeding for reconsideration, ''[i]f the person raising an objection can demonstrate to EPA that it was impracticable to raise such objection within [the period for public comment] or if the grounds for such objection arose after the period for public comment (but within the time specified for judicial review) and if such objection is of central relevance to the outcome of the rule.'' Any person seeking to make such a demonstration to us should submit a Petition for Reconsideration to the Office of the Administrator, Environmental Protection Agency, Room 3000, EPA WJC West Building, 1200 Pennsylvania Ave. NW., Washington, DC 20460, with a copy to the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section, and the Associate General Counsel for the Air and Radiation Law Office, Office of General Counsel (Mail Code 2344A), Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20004. Note that under CAA section 307(b)(2), the requirements established by this final rule may not be challenged separately in any civil or criminal proceedings brought by the EPA to enforce these requirements.

Acronyms and Abbreviations. The following acronyms and abbreviations are used in this document.

APA Administrative Procedure Act
AR4 IPCC Fourth Assessment Report
AR5 IPCC Fifth Assessment Report
CAA Clean Air Act
CBI confidential business information
CFC chlorofluorocarbon
CFR Code of Federal Regulations
CH_4 methane
CO_2 carbon dioxide
CO_2e carbon dioxide equivalent
DE destruction efficiency
EAR Export Administration Regulations
EF emission factor
ECF emission calculation factor
e-GGRT Electronic Greenhouse Gas Reporting Tool
EPA U.S. Environmental Protection Agency
FR Federal Register
F–GHG fluorinated greenhouse gas
F–HTF fluorinated heat transfer fluid
GHG greenhouse gas
GHGRP Greenhouse Gas Reporting Program
GWP global warming potential
HCFC hydrochlorofluorocarbon
HCFE hydrochlorofluoroether
HFC hydrofluorocarbon
HFE hydrofluoroether
HQ Headquarters
IPCC Intergovernmental Panel on Climate Change
Kg kilograms
Mscf thousand standard cubic feet
$mtCO_2e$ metric tons carbon dioxide equivalent
N_2O nitrous oxide
NAICS North American Industry Classification System
NF_3 nitrogen trifluoride
NODA Notice of Data Availability
NTTAA National Technology Transfer and Advancement Act of 1995
OMB Office of Management and Budget
PFC perfluorocarbon
RFA Regulatory Flexibility Act
RY reporting year
SAR Second Assessment Report
SF_6 sulfur hexafluoride
TAR Third Assessment Report
TPY tons per year
UMRA Unfunded Mandates Reform Act of 1995
UNFCCC United Nations Framework Convention on Climate Change
U.S. United States
WWW Worldwide Web

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

I. Background
A. How is this preamble organized?
B. Overview of Previously Proposed Actions Being Finalized in This Final Rule
C. Background on the GHG Reporting Rule
D. Legal Authority
E. Summary of Final Amendments
F. When will these amendments apply?
G. Relationship Between This Final Rule, the Proposed Rule To Add GWPs to

[1] *Omnipoint Corp.* v. *FCC,* 78 F3d 620, 630 (D.C. Cir. 1996), quoting *U.S.* v. *Gavrilovic,* 551 F.2d 1099, 1105 (8th Cir. 1977).

Table A–1, and the Proposed Amendments to Subpart L
H. How will these amendments affect confidentiality determinations?
II. Overview of Final Amendments and Responses to Public Comments
A. Amendments to Table A–1
B. Amendments to Subpart L Reporting Requirements
C. Removal of the Mass-Balance Method From Subpart L
D. Clarification of the Subpart L Emission Factor Method
III. Overview and Approach to Final CBI Determinations
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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
K. Congressional Review Act

I. Background

A. How is this preamble organized?

The first section of this preamble contains an overview of the previously proposed actions being finalized by today's final rule, background information regarding the Greenhouse Gas Reporting Program (GHGRP), an overview of the final amendments, information on when the amendments become effective, how this rule affects confidentiality determinations, and how this rule relates to other GHG reporting actions. This section also discusses the EPA's use of our legal authority under the CAA to collect data under the Greenhouse Gas Reporting Rule, hereinafter referred to as the ''GHG Reporting Rule'' or ''Part 98.''

The second section of this preamble is organized by the provisions being amended (*e.g.,* addition of chemical-specific and default GWPs to the general provisions, emission reporting requirements for fluorinated gas production, etc.). For each set of provisions, the preamble describes the amendments that are being finalized, summarizes the changes since the proposed rule(s), summarizes the significant public comments received, and presents the EPA's response to those comments. Additional comments and responses can be found in the document, ''Response to Public Comments on Proposed Addition of GWPs to Subpart A and Proposed Amendments to Subpart L'' in Docket number EPA–HQ–OAR–2009–0927.

The third section of this preamble discusses the confidentiality determinations for the data reporting elements in subpart L as amended by today's action.

The fourth section of this preamble discusses the economic impacts of the amendments.

Finally, the fifth section of this preamble discusses the various statutory and executive order requirements applicable to this action.

B. Overview of Previously Proposed Actions Being Finalized in This Final Rule

In today's final rule, we are finalizing amendments and determinations proposed in four separate previous actions. The amendments and determinations that we are finalizing from three of these actions are specifically related to Fluorinated Gas Production (subpart L). The four actions include, in chronological order:

- The proposed rule entitled ''Proposed Confidentiality Determinations for Data Elements Under the Mandatory Reporting of Greenhouse Gases Rule'' (hereinafter referred to as ''2012 Proposed Confidentiality Determinations''), published on January 10, 2012 (77 FR 1434). As discussed further in Section III of this preamble, we are finalizing many of the confidentiality determinations that were proposed in that action for the subpart L data elements that are not being removed or substantially revised elsewhere in this action.
- The proposed rule entitled ''Revisions to Reporting and Recordkeeping Requirements, and Proposed Confidentiality Determinations Under the Greenhouse Gas Reporting Program'' (hereinafter referred to as the ''Proposed Inputs Rule''), published on September 11, 2013 (78 FR 55994). We are finalizing the revisions proposed in that action to the subpart L reporting and recordkeeping requirements, with certain changes as discussed in Section II.B of this preamble.
- The proposed rule entitled ''Greenhouse Gas Reporting Program: Amendments and Confidentiality Determinations for Fluorinated Gas Production'' (hereinafter referred to as ''Proposed Amendments to Subpart L''), published on November 19, 2013 (78 FR 69337). We are finalizing that action, including the proposed confidentiality determinations for new or substantially revised data elements, with certain changes as discussed in Sections II.B and III of this preamble.
- The proposed rule entitled ''Greenhouse Gas Reporting Program: Addition of Global Warming Potentials'' (hereinafter referred to as ''Proposed Rule to Add GWPs''), published on July 31, 2014 (79 FR 44332). We are finalizing that action with certain changes as discussed in Section II.A of this preamble.

More background on the proposed amendments and determinations is provided in Sections I.C and III of this preamble.

C. Background on the GHG Reporting Rule

Part 98 was initially published in the **Federal Register** on October 30, 2009 (74 FR 56260). Part 98 became effective on December 29, 2009, and requires reporting of GHGs from certain facilities and suppliers. A subsequent document finalizing reporting requirements for Fluorinated Gas Production was published on December 1, 2010 (75 FR 74774). (The final rule published on December 1, 2010 is hereinafter referred to as the ''2010 Subpart L Rule'').

1. Background on Addition of GWPs to Subpart A

Table A–1 to subpart A of 40 CFR part 98 (Table A–1) is a compendium of GWP values of certain GHGs that are required to be reported under one or more subparts of the GHG Reporting Rule. These GWPs are used to convert tons of chemical into tons of CO_2-equivalent (CO_2e) for purposes of various calculations and reporting under the rule. As indicated in the **Federal Register** document for the final Part 98 (74 FR 56348), it is the EPA's intent to periodically update Table A–1 as GWPs are evaluated or reevaluated by the scientific community. This will provide a more accurate and complete account of the atmospheric impacts of GHG emissions and supplies.

GWPs that have been newly evaluated or reevaluated in the peer-reviewed

scientific literature are periodically consolidated and published by the Intergovernmental Panel on Climate Change (IPCC). The initial Table A–1 finalized in the 2009 GHG Reporting Rule included GWP values from the Second Assessment Report (SAR) and, for gases that were not included in SAR, from the Fourth Assessment Report [2] (hereinafter referred to as ''IPCC AR4'' or ''AR4''). (In addition, Table A–1 included a GWP for one fluorinated GHG that had been published in the peer-reviewed literature but not an IPCC report, the GWP for sevoflurane.) [3] The IPCC recently published the Fifth Assessment Report (AR5), which contains GWPs for a number of fluorinated GHGs that were not included in either SAR or AR4.[4]

The scope of the fluorinated compounds reported under the GHGRP is established by the definition of ''fluorinated GHG'' at 40 CFR 98.6 (and, for subpart I, ''fluorinated HTF'' at 40 CFR 98.98), rather than by inclusion in Table A–1. The EPA therefore receives reports of emissions and supplies for a number of fluorinated compounds that have not had GWPs included in Table A–1.[5] These supplies, and a large fraction of these emissions, have been assigned a GWP of zero for purposes of GHGRP calculations and reporting, including threshold determinations.[6]

As discussed in the Proposed Rule to Add GWPs, the EPA has recently undertaken several efforts to improve the quality and completeness of the GWPs used to calculate and report emissions under the GHGRP. On November 29, 2013, we published the final rule entitled ''2013 Revisions to the Greenhouse Gas Reporting Rule and Final Confidentiality Determinations for New or Substantially Revised Data Elements'' (78 FR 71904, November 29, 2013; hereinafter referred to as ''final 2013 Revisions Rule''). That rule amended Table A–1 to update the GWPs for GHGs included in AR4 to the AR4 values. The revisions improved the quality of reported CO_2e emissions and supply by reflecting improved scientific understanding (since the publication of SAR) of the radiative forcing and atmospheric lifetimes of the GHGs that have GWPs in AR4. In addition, for those GHGs, the revisions ensured comparability of data collected in the GHGRP to the Inventory of U.S. Greenhouse Gas Emissions and Sinks that the EPA compiles annually to meet international commitments under the United Nations Framework Convention on Climate Change (UNFCCC). Countries that submit GHG inventories under the UNFCCC have decided to use AR4 GWPs for the GHGs that have AR4 GWPs, beginning with the inventories submitted in 2015.[7]

On April 5, 2013, we published a Notice of Data Availability (NODA) (78 FR 20632) regarding another 43 fluorinated GHGs and HTFs whose GWPs were not included in Table A–1.[8] On November 19, 2013, we published the Proposed Amendments to Subpart L, including a proposed amendment to establish within subpart L a new set of default GWPs by fluorinated GHG group for the emissions calculated and reported under that subpart. The proposed set of five default GWPs was intended to replace the current set of two default GWPs in subpart L (discussed further in Section I.C.2 of this preamble) that are applied to fluorinated GHGs that are not included in Table A–1, increasing the precision and accuracy of calculated CO_2e emissions. We requested and received comments on the GWP-related information made available by the NODA and on the proposed fluorinated GHG groups and associated default GWPs included in the Proposed Amendments to Subpart L.

On July 31, 2014, after considering the public comments on all of the actions described above, we published the Proposed Rule to Add GWPs, in which we proposed to amend Table A–1 to add chemical-specific and default GWPs. The 103 proposed chemical-specific GWPs were primarily drawn from the Fifth Assessment Report (AR5). The eight proposed default GWPs were intended for fluorinated GHGs and fluorinated HTFs for which peer-reviewed GWPs are not available in AR4, AR5, or other sources, and they were calculated and applied based on fluorinated GHG group. Each fluorinated GHG group was composed of compounds with similar chemical structures, which have similar atmospheric lifetimes and GWPs.

The Proposed Rule to Add GWPs reflected our efforts to weigh multiple considerations in updating the set of GWPs used under the GHGRP, including the accuracy of the GWPs, the consistency of those GWPs with the GWPs used in other national and international programs, the predictability and stability of the GWPs, the source of the GWPs, and the impacts of those GWPs on other regulatory programs. In the proposed rule, we weighed these considerations in the context of proposing to add GWPs for GHGs that are not presently included in Table A–1. For such GHGs, the improvement in accuracy associated with listing a GWP in Table A–1 is likely to be large, because the alternative is generally to continue to assign these GHGs a GWP of zero for purposes of the calculations and reporting under the GHGRP.

The EPA is finalizing the addition of both chemical-specific and default GWPs in this action, with certain changes following consideration of comments submitted. Responses to significant comments submitted on the proposed addition can be found in Section II of this preamble.

2. Background on Amendments to Subpart L

On January 10, 2012, the EPA published proposed determinations regarding whether the GHGRP data elements in eight subparts of Part 98, including subpart L, would or would not be entitled to confidential treatment under the CAA (77 FR 1434). In that proposed rule, the EPA proposed that the chemical identities and quantities of the fluorinated GHG emissions at the

[2] 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.

[3] Langbein, T., H. Sonntag, D. Trapp, A. Hoffmann, W. Malms, E.-P. Röth, V. Mörs and R. Zellner, 1999. ''Volatile anaesthetics and the atmosphere: atmospheric lifetimes and atmospheric effects of halothane, enflurane, isoflurane, desflurane and sevoflurane.'' British Journal of Anaesthetics 82 (1): 66–73, discussed in the Technical Support Document for Industrial Gas Supply: Production, Transformation, and Destruction of Fluorinated GHGs and N_2O, Office of Air and Radiation, USEPA, February 6, 2009.

[4] 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, 1535 pp.

[5] Such reports have been received under subparts I, L, OO, and QQ.

[6] For most subparts, including subparts I, OO, and QQ, reporters have been required to report CO_2e only for fluorinated GHGs listed in Table A–1. Subpart I included a default GWP of 2,000 for purposes of various calculations (but not reporting). Subpart L included default GWPs of 2,000 and 10,000 for purposes of both calculations and reporting.

[7] As discussed in the actions for the proposed and final 2013 Revisions Rule, the IPCC publishes Scientific Assessment Reports, including updated and expanded sets of GWPs, approximately every six years. The countries that submit annual GHG inventories under the UNFCCC update the GWPs that they use for those inventories less frequently. For example, the GWPs from the IPCC SAR have been used for UNFCCC reporting for over a decade.

[8] We had not included these compounds in the proposed 2013 Revisions Rule because documentation for GWPs for these compounds was limited at the time that the proposal was being prepared. We subsequently received more documentation from the compounds' manufacturers.

process level, reported under subpart L, are ''emission data.'' Under section 114(c) of the CAA, ''emission data'' are not eligible for confidential treatment and must be made publicly available.

The EPA received two comments on that proposed rule related to subpart L. The two commenters raised concerns that the disclosure of the identity and quantities of the fluorinated GHGs emitted at the process level, from either process vents or fugitive sources, would reveal ''trade secrets'' regarding individual chemical production processes. In response to these comments, the EPA promulgated two sets of amendments that deferred full subpart L reporting until March, 2015, and established temporary, less detailed reporting requirements for reporting years (RYs) 2011, 2012, and 2013 (77 FR 51477, August 24, 2012, and 78 FR 71904, November 29, 2013). This was intended to allow the EPA additional time to evaluate the concerns raised by the commenters and to consider how the rule might be changed to balance these concerns with the EPA's need to obtain the data necessary to inform the development of future GHG policies and programs. The temporary provisions required facilities to report total fluorinated GHG emissions at the facility level in tons of CO_2e and, to enable such reporting for fluorinated GHGs that did not have GWPs on Table A–1, established two default GWPs.

On November 19, 2013, the EPA published the Proposed Amendments to Subpart L. In addition to the five default GWPs discussed in Section I.C.1 of this preamble, the proposed amendments included revisions to the reporting requirements of subpart L to allow more aggregated reporting (as compared to the 2010 Subpart L rule) to address potential disclosure concerns; removal of the option to use the mass-balance approach; clarification of the emission factor approach; and various technical corrections. The EPA is finalizing those amendments in this action, with certain changes following consideration of comments submitted. Responses to significant comments submitted on the proposed amendments can be found in Section II of this preamble.

On September 11, 2013 (78 FR 55994), the EPA published the Proposed Inputs Rule, in which we proposed amendments to the recordkeeping and reporting provisions of Part 98, including an alternative verification approach, to address the inputs to emission equations for which disclosure concerns were identified. The Proposed Inputs Rule included proposed revisions to the reporting and recordkeeping provisions of subpart L. On October 24, 2014, the EPA issued the Final Inputs Rule (79 FR 63750). In that rule, the EPA did not take final action on the subpart L inputs to emission equations but expressed its intent to address those inputs in a separate rulemaking (79 FR 63754). We are finalizing in this action various proposals, including the above-mentioned proposed revisions to subpart L inputs to emission equations (with certain changes discussed in Section II of this preamble), to consolidate all of the revisions to subpart L that are related to disclosure concerns. As described in the Proposed Inputs Rule (78 FR 55994), we evaluated the data elements for which reporting was deferred to 2015. Our evaluation involved a four-step process. The results of the final evaluation are documented in the four following memoranda available in the EPA's Docket ID No. EPA–HQ–OAR–2010–0929:

- ''Summary of Data Collected to Support Determination of Public Availability of Inputs to Emission Equations for which Reporting was Deferred to March 31, 2015,'' September 2014.
- ''Final Evaluation of Competitive Harm from Disclosure of 'Inputs to Equations' Data Elements Deferred to March 31, 2015,'' September 2014.
- ''Evaluation of Alternative Calculation Methods,'' August 2013.
- ''Evaluation of Alternative Verification Approaches For Greenhouse Gas Reporting Rule Subparts for which Reporting of Inputs to Emission Equations was Deferred to March 31, 2015,'' August 2013.

D. Legal Authority

The EPA is finalizing these rule amendments under its existing CAA authority provided in CAA section 114. As stated in the preamble to the 2009 final GHG reporting rule (74 FR 56260, October 30, 2009), CAA section 114(a)(1) provides the EPA broad authority to require the information required to be gathered by this rule because such data inform and are relevant to the EPA's carrying out a wide variety of CAA provisions. See the preambles to the proposed (74 FR 16448, April 10, 2009) and final Part 98 (74 FR 56260) for further information.

In addition, the EPA is finalizing confidentiality determinations for certain data elements required under the GHG Reporting Rule under its authorities provided in sections 114, 301, and 307 of the CAA. As mentioned above, CAA section 114 provides the EPA authority to collect the information in Part 98. Section 114(c) requires that the EPA make publicly available information obtained under section 114 except for information that is not emission data and that qualifies for confidential treatment. The Administrator has determined that this final rule is subject to the provisions of section 307(d) of the CAA.

E. Summary of Final Amendments

The EPA is amending the General Provisions of the Greenhouse Gas Reporting Rule as well as certain provisions of that rule that affect Fluorinated Gas Production facilities. The final amendments include the following changes:

- Changes to the General Provisions (subpart A) and Conforming Changes to Electronics Manufacturing (subpart I) and Fluorinated Gas Production (subpart L):
  - —Revision of Table A–1 to subpart A of 40 CFR part 98 (Table A–1), the compendium of GWPs used to calculate CO_2e under the GHGRP, to add chemical-specific GWPs for approximately 100 fluorinated GHGs. The chemical-specific GWPs are primarily drawn from AR5.
  - —Revision of Table A–1 to add default GWPs for fluorinated GHGs and fluorinated HTFs for which peer-reviewed GWPs are not available. These default GWPs are calculated and assigned based on fluorinated GHG group and are based on the chemical-specific GWPs for the compounds in Table A–1 as revised by this rule, that is, on a combination of AR4 and AR5 GWPs.
  - —Conforming changes to subparts I and L, which previously included their own default GWPs for purposes of certain CO_2e calculations.
- Changes to Fluorinated Gas Production (subpart L):
  - —Revision of the reporting requirements of subpart L to allow more aggregated reporting as compared to the 2010 Subpart L rule to address potential disclosure concerns (see Section II.B.1 of this preamble).
  - —Addition of a requirement to use an EPA-provided inputs verification tool (IVT) for certain inputs to subpart L emission equations for which reporting was deferred to 2015 and for which disclosure concerns have been identified.
  - —Removal of the requirement to report certain inputs to subpart L emission equations for which reporting was deferred to 2015 and for which disclosure concerns have been identified. (This includes the revising of Table A–7 in Subpart A.)
  - —Removal of the requirement to report certain inputs to subpart L emission

equations for which reporting was deferred to 2015 due to their not being useful for data verification or informing future GHG policy development in the absence of other deferred inputs for which the reporting requirements are being removed.
—Removal of the option to use the mass-balance approach.
—Clarification of the emission factor approach.
—Various technical corrections.

F. When will these amendments apply?

Amendments to Table A–1. The amendments to Table A–1 apply to reporting that occurs in calendar year 2015 and subsequent years. For all subparts except subpart L, discussed below, this is limited to the reporting of data gathered in 2014 (*i.e.,* RY 2014) and future years.[9]

Subpart L. With one exception, discussed below, the amendments apply to reporting under 40 CFR part 98, subpart L (subpart L) that occurs in calendar year 2015 and subsequent years. This includes reporting of information for RY 2014 and subsequent reporting years (*i.e.,* information related to emissions that occur in 2014 and subsequent years). It also includes reporting of certain information for RYs 2011, 2012, and 2013. We previously deferred full reporting for RYs 2011 and 2012 under the rule titled ''2012 Technical Corrections, Clarifying and Other Amendments to the Greenhouse Gas Reporting Rule, and Confidentiality Determinations for Certain Data Elements of the Fluorinated Gas Source Category'' (77 FR 51477; August 24, 2012). We deferred full reporting for RY 2013 under the Final 2013 Revisions Rule.

Under today's final action, the requirement to enter inputs to subpart L emission equations into IVT applies to RY 2015 and all subsequent reporting years. As discussed further in Section II.B.1 of this preamble, starting with RY 2015 (which is required to be reported by March 31, 2016) will allow the EPA to develop a subpart L IVT module that integrates the subpart L reporting requirements being finalized in this action.

G. Relationship Between This Final Rule, the Proposed Rule To Add GWPs to Table A–1, and the Proposed Amendments to Subpart L

This rule is finalizing both the Proposed Rule to Add GWPs to Table A–1 and the Proposed Amendments to Subpart L. As discussed in the Proposed Rule to Add GWPs, the default GWPs that are being finalized in this action will apply across Part 98, including to subpart L. Thus, subpart L will no longer include its own default GWPs. This will simplify subpart L and ensure future as well as current consistency among the default GWPs applied across Part 98.

H. How will these amendments affect confidentiality determinations?

In this action, we are finalizing confidentiality determinations for certain subpart L data elements. The EPA proposed confidentiality determinations for the subpart L data elements (77 FR 1434, January 10, 2012), and then proposed additional confidentiality determinations for new or substantially revised subpart L data elements (78 FR 69337, November 19, 2013). The final confidentiality determinations for these data elements together with our rationale are discussed in detail in Section III.A of this preamble. For four of the existing data elements, we are not finalizing confidentiality determinations for the reasons discussed in Section III.A. In addition, as with inputs to emission equations in other Part 98 subparts, we are not finalizing confidentiality determinations for any subpart L inputs to emission equations data. Lastly, the amendments remove certain other existing subpart L reporting requirements, while continuing to require that records be kept of these elements. Because the EPA is finalizing the removal of these data elements, the EPA is not taking final action on the previously proposed confidentiality determinations for the removed data elements.

II. Overview of Final Amendments and Responses to Public Comments

A. Amendments to Table A–1

1. Summary of Final Amendments to Table A–1

As proposed, we are amending Table A–1 to subpart A of Part 98 to add chemical-specific and default GWPs. We are adding peer-reviewed, chemical-specific GWPs for the 98 compounds listed in Table 2 of this preamble. To reflect the latest scientific consensus regarding fluorinated GHGs that do not have GWPs in AR4, we are adopting the GWPs provided for 97 of these 98 compounds in Table 8.A.1 of AR5.[10]

TABLE 2—CHEMICAL-SPECIFIC GWPS FOR ADDITION TO TABLE A–1

Common or trade name	Chemical name(s)	CAS No.	Chemical formula	AR5 GWP (100-year)
Saturated HFCs				
Saturated HFCs with two or fewer carbon-hydrogen bonds				
HFC-227ca	1,1,1,2,2,3,3-Heptafluoropropane	2252–84–8	$CF_3CF_2CHF_2$	2640
HFC-329p	1,1,1,2,2,3,3,4,4-Nonafluorobutane	375–17–7	$CHF_2CF_2CF_2CF_3$	2360
Saturated HFCs with three or more carbon-hydrogen bonds				
HFC-245cb	1,1,1,2,2-Pentafluoropropane	1814–88–6	$CF_3CF_2CH_3$	4620
HFC-245ea	1,1,2,3,3-Pentafluoropropane	24270–66–4	$CHF_2CHFCHF_2$	235
HFC-245eb	1,1,1,2,3-Pentafluoropropane	431–31–2	$CH_2FCHFCF_3$	290
HFC-263fb	1,1,1-Trifluoropropane	421–07–8	$CH_3CH_2CF_3$	76
HFC-272ca	2,2-Difluoropropane	420–45–1	$CH_3CF_2CH_3$	144
Saturated PFCs				
PFC-6-1-12	Hexadecafluoroheptane	335–57–9	C_7F_{16}; $CF_3(CF_2)_5CF_3$	7820

[9] With the exception of subpart L, we are not requiring or allowing reporters to submit revised certified reports for RYs 2010, 2011, 2012, or 2013 with CO_2e values calculated using the revised GWPs. This is the same approach as we adopted in the final Revisions Rule (78 FR 71939).

[10] For one compound, CF_3I, which was inadvertently excluded from Table A–1 previously, we are adding an AR4 GWP as proposed.

TABLE 2—CHEMICAL-SPECIFIC GWPS FOR ADDITION TO TABLE A–1—Continued

Common or trade name	Chemical name(s)	CAS No.	Chemical formula	AR5 GWP (100-year)
PFC-7-1-18	Octadecafluorooctane	307–34–6	C_8F_{18}; $CF_3(CF_2)_6CF_3$	7620
	Perfluorodecalin (cis)	60433–11–6	Z-$C_{10}F_{18}$	7240
	Perfluorodecalin (trans)	60433–12–7	E-$C_{10}F_{18}$	6290
Saturated HFEs				
Saturated HFEs and HCFEs with one carbon-hydrogen bond				
HFE-329me3	1,1,1,2,3,3-Hexafluoro-3-(trifluoromethoxy)propane	428454–68–6	$CF_3CFHCF_2OCF_3$	4550
	1,1,1,2,2,3,3-Heptafluoro-3-(1,2,2,2-tetrafluoroethoxy)-propane	3330–15–2	$CF_3CF_2CF_2OCHFCF_3$	6490
Saturated HFEs and HCFEs with two carbon-hydrogen bonds				
HFE-236ca	1-(Difluoromethoxy)-1,1,2,2-tetrafluoroethane	32778–11–3	$CHF_2OCF_2CHF_2$	4240
HCFE-235ca2; enflurane	2-Chloro-1-(difluoromethoxy)-1,1,2-trifluoroethane	13838–16–9	CHF_2OCF_2CHFCl	583
HG-02	1-(Difluoromethoxy)-2-(2-(difluoromethoxy)-1,1,2,2-tetrafluoroethoxy)-1,1,2,2-tetrafluoroethane.	205367–61–9	$HF_2C-(OCF_2CF_2)_2-OCF_2H$	3825
HG-03	1,1,3,3,4,4,6,6,7,7,9,9,10,10,12,12-Hexadecafluoro-2,5,8,11-tetraoxadodecane.	173350–37–3	$HF_2C-(OCF_2CF_2)_3-OCF_2H$	3670
HG-20	(Difluoromethoxy)((difluoromethoxy)difluoromethoxy) difluoromethane.	249932–25–0	$HF_2C-(OCF_2)_2-OCF_2H$	5300
HG-21	1,1,3,3,5,5,7,7,8,8,10,10-Dodecafluoro-2,4,6,9-tetraoxadecane	249932–26–1	$HF_2C-OCF_2CF_2OCF_2OCF_2O-CF_2H$	3890
HG-30	1,1,3,3,5,5,7,7,9,9-Decafluoro-2,4,6,8-tetraoxanonane	188690–77–9	$HF_2C-(OCF_2)_3-OCF_2H$	7330
	1,1,3,3,4,4,6,6,7,7,9,9,10,10,12,12,13,13,15,15-eicosafluoro-2,5,8,11,14-Pentaoxapentadecane.	173350–38–4	$HCF_2O(CF_2CF_2O)_4CF_2H$	3630
	1,1,2-Trifluoro-2-(trifluoromethoxy)-ethane	84011–06–3	$CHF_2CHFOCF_3$	1240
	Trifluoro(fluoromethoxy)methane	2261–01–0	CH_2FOCF_3	751
Saturated HFEs and HCFEs with three or more carbon-hydrogen bonds				
HFE-263m1; R-E-143a	1,1,2,2-Tetrafluoro-1-(trifluoromethoxy)ethane	690–22–2	$CF_3OCH_2CH_3$	29
HFE-347mmz1; Sevoflurane	2-(Difluoromethoxy)-1,1,1,3,3,3-hexafluoropropane	28523–86–6	$(CF_3)_2CHOCH_2F$	216
HFE-365mcf2	1-Ethoxy-1,1,2,2,2-pentafluoroethane	22052–81–9	$CF_3CF_2OCH_2CH_3$	58
HFE-356mff2	bis(2,2,2-trifluoroethylTrifluoroethyl) ether	333–36–8	$CF_3CH_2OCH_2CF_3$	17
HG′-01	1,1,2,2-Tetrafluoro-1,2-dimethoxyethane	73287–23–7	$CH_3OCF_2CF_2OCH_3$	222
HG′-02	1,1,2,2-Tetrafluoro-1-methoxy-2-(1,1,2,2-tetrafluoro-2-methoxyethoxy)ethane.	485399–46–0	$CH_3O(CF_2CF_2O)_2CH_3$	236
HG′-03	3,3,4,4,6,6,7,7,9,9,10,10-Dodecafluoro-2,5,8,11-tetraoxadodecane.	485399–48–2	$CH_3O(CF_2CF_2O)_3CH_3$	221
	Difluoro(methoxy)methane	359–15–9	CH_3OCHF_2	144
	2-Chloro-1,1,2-trifluoro-1-methoxyethane	425–87–6	CH_3OCF_2CHFCl	122
	1-Ethoxy-1,1,2,2,3,3,3-heptafluoropropane	22052–86–4	$CF_3CF_2CF_2OCH_2CH_3$	61
	2-Ethoxy-3,3,4,4,5-pentafluorotetrahydro-2,5-bis[1,2,2,2-tetrafluoro-1-(trifluoromethyl)ethyl]-furan.	920979–28–8	$C_{12}H_5F_{19}O_2$	56
	1-Ethoxy-1,1,2,3,3,3-hexafluoropropane	380–34–7	$CF_3CHFCF_2OCH_2CH_3$	23
	Fluoro(methoxy)methane	460–22–0	CH_3OCH_2F	13
	1,1,2,2-Tetrafluoro-3-methoxy-propane; Methyl 2,2,3,3-tetrafluoropropyl ether.	60598–17–6	$CHF_2CF_2CH_2OCH_3$	0.49
	1,1,2,2-Tetrafluoro-1-(fluoromethoxy)ethane	37031–31–5	$CH_2FOCF_2CF_2H$	871
	Difluoro(fluoromethoxy)methane	461–63–2	CH_2FOCHF_2	617
	Fluoro(fluoromethoxy)methane	462–51–1	CH_2FOCH_2F	130
Fluorinated formates				
	Trifluoromethyl formate	85358–65–2	$HCOOCF_3$	588
	Perfluoroethyl formate	313064–40–3	$HCOOCF_2CF_3$	580
	1,2,2,2-Tetrafluoroethyl formate	481631–19–0	$HCOOCHFCF_3$	470
	Perfluorobutyl formate	197218–56–7	$HCOOCF_2CF_2CF_2CF_3$	392
	Perfluoropropyl formate	271257–42–2	$HCOOCF_2CF_2CF_3$	376
	1,1,1,3,3,3-Hexafluoropropan-2-yl formate	856766–70–6	$HCOOCH(CF_3)_2$	333
	2,2,2-Trifluoroethyl formate	32042–38–9	$HCOOCH_2CF_3$	33
	3,3,3-Trifluoropropyl formate	1344118–09–7	$HCOOCH_2CH_2CF_3$	17
Fluorinated acetates				
	Methyl 2,2,2-trifluoroacetate	431–47–0	CF_3COOCH_3	52
	1,1-Difluoroethyl 2,2,2-trifluoroacetate	1344118–13–3	$CF_3COOCF_2CH_3$	31
	Difluoromethyl 2,2,2-trifluoroacetate	2024–86–4	$CF_3COOCHF_2$	27
	2,2,2-Trifluoroethyl 2,2,2-trifluoroacetate	407–38–5	$CF_3COOCH_2CF_3$	7
	Methyl 2,2-difluoroacetate	433–53–4	HCF_2COOCH_3	3
	Perfluoroethyl acetate	343269–97–6	$CH_3COOCF_2CF_3$	2.1
	Trifluoromethyl acetate	74123–20–9	CH_3COOCF_3	2.0
	Perfluoropropyl acetate	1344118–10–0	$CH_3COOCF_2CF_2CF_3$	1.8
	Perfluorobutyl acetate	209597–28–4	$CH_3COOCF_2CF_2CF_2CF_3$	1.6
	Ethyl 2,2,2-trifluoroacetate	383–63–1	$CF_3COOCH_2CH_3$	1.3
Carbonofluoridates				
	Methyl carbonofluoridate	1538–06–3	$FCOOCH_3$	95

TABLE 2—CHEMICAL-SPECIFIC GWPS FOR ADDITION TO TABLE A–1—Continued

Common or trade name	Chemical name(s)	CAS No.	Chemical formula	AR5 GWP (100-year)
	1,1-Difluoroethyl carbonofluoridate	1344118–11–1	$FCOOCF_2CH_3$	27
Fluorinated alcohols other than fluorotelomer alcohols				
	2,2,3,3,4,4,4-Heptafluorobutan-1-ol	375–01–9	C_3F_7CH2OH	25
	2,2,2-Trifluoroethanol	75–89–8	CF_3CH_2OH	20
	2,2,3,4,4,4-Hexafluoro-1-butanol	382–31–0	$CF_3CHFCF_2CH_2OH$	17
	2,2,3,3-Tetrafluoro-1-propanol	76–37–9	$CHF_2CF_2CH_2OH$	13
	2,2-Difluoroethanol	359–13–7	CHF_2CH2OH	3
	2-Fluoroethanol	371–62–0	CH_2FCH_2OH	1.1
	4,4,4-Trifluorobutan-1-ol	461–18–7	$CF_3(CH_2)_2CH_2OH$	0.05
Unsaturated compounds				
Unsaturated PFCs				
PFC-1114; TFE	Tetrafluoroethylene (TFE); Perfluoroethene	116–14–3	$CF_2=CF_2$; C_2F_4	0.004
PFC-1216; Dyneon HFP	Hexafluoropropylene (HFP); Perfluoropropene	116–15–4	C_3F_6; $CF_3CF=CF_2$	0.05
PFC C-1418	Perfluorocyclopentene; Octafluorocyclopentene	559–40–0	c-C_5F_8	1.97
	Perfluorobut-2-ene	360–89–4	$CF_3CF=CFCF_3$	1.82
	Perfluorobut-1-ene	357–26–6	$CF_3CF_2CF=CF_2$	0.10
	Perfluorobuta-1,3-diene	685–63–2	$CF_2=CFCF=CF_2$	0.003
Unsaturated HFCs and unsaturated HCFCs				
HFC-1132a; VF2	Vinylidiene fluoride	75–38–7	$C_2H_2F_2$, $CF_2=CH_2$	0.04
HFC-1141; VF	Vinyl fluoride	75–02–5	C_2H_3F, $CH_2=CHF$	0.02
(E)-HFC-1225ye	(E)-1,2,3,3,3-Pentafluoroprop-1-ene	5595–10–8	$CF_3CF=CHF(E)$	0.06
(Z)-HFC-1225ye	(Z)-1,2,3,3,3-Pentafluoroprop-1-ene	5528–43–8	$CF_3CF=CHF(Z)$	0.22
Solstice 1233zd(E)	trans-1-Chloro-3,3,3-trifluoroprop-1-ene	102687–65–0	$C_3H_2ClF_3$; $CHCl=CHCF_3$	1.34
HFC-1234yf; HFO-1234yf	2,3,3,3-Tetrafluoroprop-1-ene	754–12–1	$C_3H_2F_4$; $CF_3CF=CH_2$	0.31
HFC-1234ze(E)	(E)-1,3,3,3-Tetrafluoroprop-1-ene	1645–83–6	$C_3H_2F_4$; trans-$CF_3CH=CHF$	0.97
HFC-1234ze(Z)	(Z)-1,3,3,3-Tetrafluoroprop-1-ene	29118–25–0	$C_3H_2F_4$; cis-$CF_3CH=CHF$; $CF_3CH=CHF$	0.29
HFC-1243zf; TFP	Trifluoro propene (TFP); 3,3,3-Trifluoroprop-1-ene	677–21–4	$C_3H_3F_3$, $CF_3CH=CH_2$	0.12
(Z)-HFC-1336	(Z)-1,1,1,4,4,4-Hexafluorobut-2-ene	692–49–9	$CF_3CH=CHCF_3(Z)$	1.58
HFO-1345zfc	3,3,4,4,4-Pentafluorobut-1-ene	374–27–6	$C_2F_5CH=CH_2$	0.09
Capstone 42-U	Perfluorobutyl ethene (42-U); 3,3,4,4,5,5,6,6,6-Nonafluorohex-1-ene.	19430–93–4	$C_6H_3F_9$, $CF_3(CF_2)_3CH=CH_2$	0.16
Capstone 62-U	Perfluorohexyl ethene (62-U); 3,3,4,4,5,5,6,6,7,7,8,8,8-Tridecafluorooct-1-ene.	25291–17–2	$C_8H_3F_{13}$, $CF_3(CF_2)_5CH=CH_2$	0.11
Capstone 82-U	Perfluorooctyl ethene (82-U); 3,3,4,4,5,5,6,6,7,7,8,8,9,9,10,10,10-Heptadecafluorodec-1-ene.	21652–58–4	$C_{10}H_3F_{17}$, $CF_3(CF_2)_7CH=CH_2$	0.09
Unsaturated Halogenated Ethers				
PMVE; HFE-216	Perfluoromethyl vinyl ether (PMVE)	1187–93–5	$CF_3OCF\square=\square CF_2$	0.17
Fluoroxene	(2,2,2-Trifluoroethoxy)ethene	406–90–6	$CF_3CH_2OCH=CH_2$	0.05
Other short-lived compounds				
Fluorinated Ketones				
Novec 1230	FK-5-1-12 Perfluoroketone; FK-5-1-12myy2; Perfluoro(2-methyl-3-pentanone).	756–13–8	$CF_3CF_2C(O)CF\ (CF3)_2$	0.1
Fluorinated Aldehydes				
	3,3,3-Trifluoro-propanal	460–40–2	CF_3CH_2CHO	0.01
Fluorotelomer Alcohols				
	3,3,4,4,5,5,6,6,7,7,7-Undecafluoroheptan-1-ol	185689–57–0	$CF_3(CF_2)_4CH_2CH_2OH$	0.43
	3,3,3-Trifluoropropan-1-ol	2240–88–2	$CF_3CH_2CH_2OH$	0.35
	3,3,4,4,5,5,6,6,7,7,8,8,9,9,9-Pentadecafluorononan-1-ol	755–02–2	$CF_3(CF_2)_6CH_2CH_2OH$	0.33
	3,3,4,4,5,5,6,6,7,7,8,8,9,9,10,10,11,11,11-Nonadecafluoroundecan-1-ol.	87017–97–8	$CF_3(CF_2)_8CH_2CH_2OH$	0.19
Compounds with carbon-iodine bonds				
	Trifluoroiodomethane	2314–97–8	CF_3I	[a] 0.4
Other compounds				
Halon 1202	Dibromodifluoromethane	75–61–6	CBr_2F_2	231
Halon-2311; Halothane	2-Bromo-2-chloro-1,1,1-trifluoroethane	151–67–7	$CHBrClCF_3$	41

[a] AR4.

We are also adding 12 default GWPs to Table A–1 for fluorinated GHGs and HTFs that do not have peer-reviewed GWPs. As proposed, the default GWPs are based on the average GWPs of groups of chemically similar fluorinated GHGs because chemically similar fluorinated GHGs have similar atmospheric lifetimes and GWPs. The fluorinated GHG groups are: (1) Fully fluorinated GHGs and HTFs, (2) saturated hydrofluorocarbons (HFCs) with two or fewer carbon-hydrogen bonds, (3) saturated HFCs with three or more carbon-hydrogen bonds, (4) saturated hydrofluoroethers (HFEs) and hydrochlorofluoroethers (HCFEs) with one carbon-hydrogen bond, (5) saturated HFEs and HCFEs with two carbon-hydrogen bonds, (6) saturated HFEs and HCFEs with three or more carbon-hydrogen bonds, (7) fluorinated formates, (8) fluorinated acetates, carbonofluoridates, and fluorinated alcohols other than fluorotelomer alcohols, (9) unsaturated perfluorocarbons (PFCs), unsaturated HFCs, unsaturated hydrochlorofluorocarbons (HCFCs), unsaturated halogenated ethers, unsaturated halogenated esters, fluorinated aldehydes, and fluorinated ketones, (10) fluorotelomer alcohols, (11) fluorinated GHGs with carbon-iodine bonds, and (12) other fluorinated GHGs and HTFs. For each fluorinated GHG group, we are basing the default GWP on the average of the chemical-specific GWPs of compounds that belong to that group and that are either on Table A–1 already or are being added to Table A–1 under this rule. The fluorinated GHG groups and associated default GWPs are listed in Table 3 of this preamble. We are also finalizing a requirement that if a fluorinated GHG does not have a chemical-specific GWP in Table A–1 of this subpart, reporters must report the fluorinated GHG group of which that fluorinated GHG is a member. This will allow the EPA to verify that the calculation of carbon dioxide equivalent was conducted correctly.

Finally, although we do not anticipate that finalizing the GWPs in this action will expand the set of facilities required to report under the GHGRP, we are including special provisions for facilities that become newly subject to one or more subparts of Part 98 due to the addition of GWPs, as proposed. Facilities or suppliers that become newly subject to a subpart due to the addition of GWPs are not required to report their 2014 emissions or supplies under that subpart, but they are required to report their 2015 emissions or supplies under that subpart by March 31, 2016. From January 1, 2015, to March 31, 2015, they may use best available monitoring methods (BAMM) for any parameter that cannot reasonably be measured according to the monitoring and QA/QC requirements of the subpart, and they may submit a request to EPA to use BAMM beyond March 31. That request must be submitted by January 31, 2015.

TABLE 3—DEFAULT GWPS FOR ADDITION TO TABLE A–1

Fluorinated GHG group	GWP (100-year)
Fully fluorinated GHGs	10,000
Saturated HFCs with two or fewer carbon-hydrogen bonds	3,700
Saturated HFCs with three or more carbon-hydrogen bonds	930
Saturated HFEs and HCFEs with one carbon-hydrogen bond	5,700
Saturated HFEs and HCFEs with two carbon-hydrogen bonds	2,600
Saturated HFEs and HCFEs with three or more carbon-hydrogen bonds	270
Fluorinated formates	350
Fluorinated acetates, carbonofluoridates, and fluorinated alcohols other than fluorotelomer alcohols	30
Unsaturated PFCs, unsaturated HFCs, unsaturated HCFCs, unsaturated halogenated ethers, unsaturated halogenated esters, fluorinated aldehydes, and fluorinated ketones	1
Fluorotelomer alcohols	1
Fluorinated GHGs with carbon-iodine bond(s)	1
Other fluorinated GHGs	2000

2. Changes From the Proposed Rule

In the Proposed Rule to Add GWPs, we proposed to add 103 chemical-specific GWPs and eight default GWPs to Table A–1. The proposed fluorinated GHG groups for which we proposed default GWPs were: (1) Fully fluorinated GHGs and HTFs, (2) saturated HFCs, (3) partially segregated saturated HFEs and HCFEs, (4) non-segregated saturated HFEs and HCFEs, (5) unsaturated PFCs, unsaturated HFCs, unsaturated HCFCs, unsaturated halogenated ethers, unsaturated halogenated esters, fluorinated aldehydes, and fluorinated ketones, (6) fluorotelomer alcohols, (7) fluorinated GHGs with carbon-iodine bonds, and (8) other GHGs and HTFs.

The EPA is making minor changes to the proposed chemical-specific GWPs and is revising the fluorinated GHG groups and associated default GWPs based on comments. Regarding the chemical-specific GWPs, one commenter noted that two stereoisomers proposed for addition to Table A–1 had notation errors (switched E/Z notations); this has been corrected in the final Table A–1. The same commenter also observed that the proposed chemical-specific GWPs included some duplicate compounds with different GWPs. In the final Table A–1, we have removed five duplicate compounds. Two sets of duplicates resulted from our inadvertent proposed addition to Table A–1 of a GWP for a chemical that already had a GWP listed. These included two fluorinated alcohols with the CAS numbers 422–05–9 and 920–66–1. In these cases, we are retaining the previously listed GWPs, based on AR4. Three sets of duplicates came from AR5. These included two HFEs and one fluorinated alcohol with the CAS numbers 173350–37–3, 205367–61–9, and 375–01–9, respectively. In these cases, we used the average of the two GWPs, since both values had appeared in the peer-reviewed literature and had been listed by the AR5 authors. With the removal of the five duplicate chemicals, a total of 98 chemical-specific GWPs are being added to Table A–1.

We are making three changes to the proposed fluorinated GHG groups and default GWPs. First, we are dividing the group of saturated HFCs into two groups based on the number of carbon-hydrogen bonds in the compound. Second, we are dividing the group of saturated HFEs and HCFEs into three groups based on the number of carbon-hydrogen bonds in the compound rather than two groups based on the position of the fluorine atoms in the compound

(segregated vs. partially segregated). Third, we are dividing the proposed ''other'' category into three groups: (1) Fluorinated acetates, carbonofluoridates, and fluorinated alcohols other than fluorotelomer alcohols, (2) fluorinated formates, and (3) other fluorinated GHGs and HTFs. We discussed these options (or similar ones, as described below) in the proposed rule and supporting analyses. We received one comment supporting the division of the ''other'' category into three categories and received no negative comments on the other options. After further consideration, we have concluded that the advantages identified in the proposed rule of these approaches, which are discussed further below, merit their adoption. These changes result in the creation of four additional fluorinated GHG groups and default GWPs, increasing the total number of default GWPs from eight to 12. As discussed further below, all of the changes are expected to increase the accuracy and precision of the default GWPs.

As noted in the Proposed Rule to Add GWPs, the number of carbon-hydrogen bonds in each saturated HFC and HFE (and HCFE) is significantly correlated (negatively) with the atmospheric lifetime and GWP of that compound. For the saturated HFEs, the number of carbon-hydrogen bonds predicts the GWP more precisely than does the position of the fluorine atoms in the compound. Moreover, the number of carbon-hydrogen bonds in each compound is likely to be known, facilitating the correct categorization and default GWP selection for each saturated HFC or HFE that does not have a chemical-specific GWP on Table A–1. Thus, grouping the compounds according to the number of carbon-hydrogen bonds overcomes the drawback we had identified in previous proposed rules [11] to dividing up the saturated HFCs and HFEs (and HCFEs) by atmospheric lifetime, which is that the atmospheric lifetime of a particular saturated HFC or HFE may not be known. This enables us to establish groups of saturated HFCs and HFEs that have similar GWPs and to set considerably more precise default GWPs for these groups.

In the Proposed Rule to Add GWPs, we proposed to define the ''other'' group as including both specific compound types (*i.e.,* fluorinated acetates, carbonofluoridates, fluorinated alcohols other than fluorotelomer alcohols, fluorinated formates, and brominated compounds) and other compound types not otherwise included in any of the proposed fluorinated GHG groups. We proposed to set the default GWP for the group at 110 based on the average of the GWPs that had been measured for the specific compound types in the group. However, we requested comment on the option of setting a higher default (2000) to account for the possibility that newly synthesized compound types (which would be assigned the default for the ''other'' group) would have GWPs whose average was near the overall average for fluorinated GHGs. We noted that the disadvantage of this option was that it would apply an inappropriately high GWP to the specific compound types included in the group.

In the supporting analysis for the proposed default GWPs, we further noted that the fluorinated formates had significantly higher GWPs than most of the other specific compound types in the ''other'' group. The average GWP for the formates was about 350, while that for most of the other identified compounds in the group was 20.[12] (One other outlier in the group, dibromodifluoromethane (Halon 1202), has a GWP of 231.) Noting this difference, one commenter on the Proposed Rule to Add GWPs recommended separating the ''other'' group into three categories: Those with GWPs less than 20, those with GWPs between 20 and 100, and those with GWPs over 100. In addition, two commenters on the Proposed Amendments to Subpart L, which had included a similar grouping and default GWP for ''other'' compounds, had suggested separating compound types with average GWPs near 10 or 20 into a separate group.

In the final rule, we are removing all but one of the identified, specific compound types from the ''other'' category and are separating them into two groups, each of which is defined to contain specific compound types.[13] This approach allows us to set default GWPs that better reflect the average GWPs of both of the new, smaller groups. A default GWP of 350 is established for fluorinated formates, while a default of 30 is established for fluorinated acetates, carbonofluoridates, and fluorinated alcohols other than fluorotelomer alcohols. The new default GWPs differ by more than an order of magnitude, considerably increasing their precision for their respective groups.

In addition, we are establishing a separate group for fluorinated GHGs that do not fall into any of the specific fluorinated GHG groups and are assigning it a default GWP of 2000. This ''catch-all'' group, which retains the title ''Other fluorinated GHGs and HTFs,'' includes types of fluorinated GHGs and HTFs whose GWPs have not been studied. Given the removal of most of the specific, relatively low-GWP compound types from this group, a default GWP of 2000 is likely to better estimate the GWPs of the compounds that remain in the group than the proposed default GWP of 110, which was based on the GWP values for a small, unrepresentative subset of fluorinated GHGs (*i.e.,* acetates, fluoridates, fluorinated alcohols other than fluorotelomer alcohols, and formates). The default of 2000 is based on the average for all fluorinated GHGs. Where the GWPs of particular fluorinated GHG groups have not been published in the peer-reviewed literature, it is reasonable to assume they may fall anywhere on the continuum of GWPs measured for fluorinated GHGs in general. Based on

[11] In both the Proposed Amendments to Subpart L and the Proposed Rule to Add GWPs, we requested comment on the option of dividing the saturated HFCs and saturated HFEs into two or more groups each based on atmospheric lifetime or a structural characteristic (such as the number of carbon-hydrogen bonds) correlated with atmospheric lifetime (78 FR 69343 and 79 FR 44341). On the Proposed Amendments to Subpart L, we received a comment recommending that we divide the saturated HFEs into two groups based on a characteristic correlated with atmospheric lifetime and GWP, the position of the fluorine atom. We received no negative comments on the option of dividing the groups into more groups based on atmospheric lifetime.

[12] This value rose to 30 after the removal of the duplicate compounds, three of which were fluorinated alcohols in the ''other'' group.

[13] The exception is the fluorinated GHGs that include bromine, which we are keeping in the ''Other fluorinated GHGs'' category, as proposed. Although we proposed to group (and are grouping) fluorinated GHGs that include chlorine with similar fluorinated GHGs that do not include chlorine (*e.g.,* grouping the HCFEs with the HFEs), we did not propose to take this approach with bromine-containing compounds, because their atmospheric behavior can be significantly different from that of similar fluorinated GHGs that do not contain bromine. For example, dibromodifluoromethane, which is a saturated compound consisting of carbon, fluorine, and bromine, is analogous to fully fluorinated GHGs, but it has a much shorter atmospheric lifetime and lower GWP than those compounds (231 vs. 10,000). (Other saturated compounds consisting of carbon, fluorine, and bromine, which are not included on Table A–1 because they are regulated as ozone-depleting substances under 40 CFR part 82 and are therefore exempt from the definition of ''fluorinated GHG,'' have higher GWPs; but their average GWP of 2,400 is still significantly lower than the average for fully fluorinated GHGs.) 2-bromo-2-chloro-1,1,1-trifluoroethane, which is a saturated compound consisting of carbon, fluorine, chlorine, bromine, and hydrogen, is analogous to HFCs that include two or fewer carbon-hydrogen bonds, but it has a much shorter atmospheric lifetime and lower GWP than those compounds (41 vs. 3700). (Dibromodifluoromethane and 2-bromo-2-chloro-1,1,1-trifluoroethane are the only bromine-containing fluorinated GHGs with chemical-specific GWPs on Table A–1.)

this principle, a default GWP of 2000 is currently used in subpart I and subpart L for, respectively, any fluorinated GHG whose GWP is not on Table A–1, and for any fluorinated GHG, other than a fully fluorinated GHG, whose GWP is not on Table A–1. While the default GWPs in subparts I and L are now being replaced by the default GWPs in Table A–1, which reflect more precise information regarding the atmospheric behavior of a number of fluorinated GHG groups, it is appropriate to retain the default of 2000 where more precise information is not available.

3. Summary of Comments and Responses Regarding Proposed Rule To Add GWPs

Comment: All commenters who expressed an opinion on the addition of chemical-specific GWPs to Table A–1 supported the addition of most of the AR5 GWPs that the EPA proposed to add. (As discussed further below, two commenters objected to the addition of very-low-GWP compounds to Table A–1.) Several commenters noted that the IPCC Assessment Reports represent the most widely recognized source of peer-reviewed GWP values, and that the GWPs in AR5 are the most up-to-date and accurate of those published in these Reports.

Two commenters advocated the adoption of AR5 GWPs for all of the compounds in Table A–1, noting that these represented the most recent and accurate GWP values available. One of these commenters asserted that the EPA's proposal to use AR5 in most but not all cases is ''internally inconsistent, arbitrary, and irrational,'' stating that GHGRP data are the basis for many agency analyses and decisions and that use of the proposed GWP would render agency decisions less reliable. The commenter noted that the EPA could use other means to harmonize information with the UNFCCC reporting conventions.

Two other commenters disagreed with the addition to Table A–1 of compounds with very low GWPs, stating that the proposal would make them, in one of the commenter's words, subject to ''regulation under the GHGRP and also potentially under the prevention of significant deterioration (PSD) and Title V permitting programs.'' The commenters argued that addition of a large number of low GWP materials to Table A–1 could substantially increase the reporting burden on U.S. semiconductor manufacturers without significantly increasing the accuracy of facility reporting or the Inventory as a whole.

Three of the commenters urged the EPA to modify the definition of fluorinated GHG to exclude fluorinated compounds with very low GWPs. They stated that these products were produced in low volumes and emitted in still lower volumes, meaning that their GWP-weighted emissions did not justify the significant administrative burden of reporting them.

Response: The EPA agrees that the AR5 GWPs are the most up-to-date and accurate available. As proposed, we are adopting AR5 GWPs for compounds for which AR4 GWPs are not available but are retaining the AR4 GWPs where they are available. As established in the Revisions Rule and reiterated in the Proposed Rule to Add GWPs, this is to remain consistent with UNFCCC reporting, which requires the use of AR4 GWPs for the GHGs with GWPs listed in AR4, and also with other national and international GHG analyses, policies, and programs. (For more discussion of these analyses and programs, see the Revisions Rule at 78 FR 71912–13). It is also consistent with the approach we took in the original Table A–1, which included GWPs from the SAR where they were available (consistent with UNFCCC requirements) but also included GWPs from AR4 for compounds for which SAR GWPs were not available.

The benefits of using the same GWPs as other analyses, policies, and programs, particularly the *Inventory of U.S. Greenhouse Gas Emissions and Sinks,* are discussed at length in the Revisions Rule (78 FR 71911–12). Briefly, they include facilitating more efficient review and comparison of data collected through the GHGRP and other U.S. climate programs, reducing the potential errors that may arise when comparing multiple data sets or converting GHG emissions or supply based on separate GWPs, and reducing the burden for reporters and agencies to keep track of separate GWPs when submitting information to these programs. In the Revisions Rule, we weighed these benefits against the increase in accuracy that would result from adopting more recent GWPs to better characterize national GHG emissions and inform EPA policies. We concluded that, where the choice is between an AR4 GWP and an AR5 GWP, the potential gain in accuracy does not justify the loss of consistency with UNFCCC reporting (and associated policy analysis) that would result.

We are adding the GWPs of very-low-GWP fluorinated GHGs to Table A–1 as proposed. It is important to note that this does not expand the set of fluorinated GHGs and HTFs that must be reported under the GHGRP because that is established by the definition of ''fluorinated GHG'' at 40 CFR 98.6 (and, for subpart I, ''fluorinated HTF'' at 40 CFR 98.98), rather than by inclusion in Table A–1. As noted above and in the Proposed Rule to Add GWPs, semiconductor facilities, as well as other emitters and suppliers of fluorinated GHGs that do not have GWPs on Table A–1, are already required to report (and do report) emissions and supplies, respectively, of these GHGs and HTFs.

Regarding the potential impact on permitting requirements of including very-low-GWP gases in Table A–1, including these gases is expected to have negligible impact on permitting requirements. As explained in the proposal to this rule, the potential impact of these proposed changes on permitting requirements is narrowed by the U.S. Supreme Court decision in *Utility Air Regulatory Group* v. *EPA* (No. 12–1146), which found that greenhouse gases cannot be treated as an air pollutant for purposes of determining whether a source is a major source required to obtain a PSD or title V permit (79 FR 44344).

As the EPA explained following the Supreme Court decision, the EPA will no longer require PSD permits at stationary sources if GHGs are the only pollutant (i) that the source emits or has the potential to emit above the major source thresholds, or (ii) for which there is a significant emissions increase and a significant net emissions increase from a modification, and the EPA will no longer require a source to obtain a title V permit solely because it emits or has the potential to emit GHGs above the major source thresholds.[14] Thus, the EPA will only apply the permitting requirements to which the commenters generally refer to GHGs at new and modified sources that trigger permitting requirements on the basis of their emissions of air pollutants other than GHGs (also known as ''anyway sources''). Accordingly, PSD's best available control technology (BACT) requirement will still apply to GHGs emitted at or above certain thresholds by anyway sources, and title V permits for anyway sources will need to incorporate and assure compliance with those BACT limits that remain

[14] Memorandum for Janet G. McCabe and Cynthia Giles to Regional Administrators, *Next Steps and Preliminary Views on the Application of Clean Air Act Permitting Programs to Greenhouse Gases Following the Supreme Court's Decision in Utility Air Regulatory Group* v. *Environmental Protection Agency* (July 24, 2014) (''July 24 Memo''), at 2, *available at http://www.epa.gov/nsr/documents/20140724memo.pdf.*

applicable requirements under a PSD permit issued to the source.[15]

The revised GWP values will apply to future permitting actions when determining whether a source required to obtain a PSD permit based on emissions of pollutants other than GHGs has emissions of GHGs that exceed the threshold at which BACT applies to emissions of greenhouse gases from such sources. While some refinements to EPA's regulations may be forthcoming based on the Supreme Court decision described above, under regulations that remain applicable at this time, the EPA has defined greenhouse gases for permitting purposes as the aggregate group of the following six greenhouse gases: carbon dioxide, nitrous oxide, methane, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride. See, *e.g.,* 40 CFR 51.166(b)(48)(i). The amount of such emissions is quantified for permitting purposes by multiplying the mass of each of these six gases by the associated GWP in Table A–1. 40 CFR 51.166(b)(48)(ii). Any changes to GWP values for substances that are among the six gases listed above will become a part of the calculation of CO_2e for permitting purposes. In this context, because the revised GWPs are so low and the magnitude of their emissions in tons of chemical is not expected to be large, the revisions to table A–1 in this rule are not expected to have a significant impact on application of the BACT requirement to GHGs at sources that trigger the requirement to obtain a permit based on emission of other pollutants.[16]

Contrary to the generalized concerns of the commenters, we believe that listing of very-low-GWP gases in Table A–1 will facilitate informed decision-making regarding the relative climate impacts of these and other fluorinated GHGs in industrial, commercial, and household use, while having only a negligible permitting impact. Based on that information, the EPA may evaluate in the future whether it would be appropriate to modify the definition of fluorinated greenhouse gas, which is outside the scope of this rulemaking.

Comment: Three commenters supported the proposed fluorinated GHG groups and default GWPs for fluorinated GHGs without peer-reviewed GWPs. One of the commenters noted that the proposed groups and GWPs reflected comments submitted on the Proposed Amendments to Subpart L, and two of the commenters agreed that default GWPs based on fluorinated GHG groups, though possibly less than fully accurate, would lead to more accurate estimates of atmospheric impacts than would a GWP of zero.

Two commenters disagreed with the proposed fluorinated GHG groups and default GWPs. These commenters stated that adding default GWPs to Table A–1 could have permitting implications and that GWPs that have not been peer-reviewed are more likely to change significantly, which may have compliance implications. One of the commenters also asserted that the fluorinated GHG groups were very broad, and that companies may need to exert considerable effort to determine which of the materials used at their facilities fall into which group and therefore trigger regulatory requirements. The other commenter argued that establishing default GWPs was inconsistent with the practice of the IPCC and therefore diverged from accepted international practice. As a result, U.S. facilities would be subject to a different standard than competitors elsewhere. This commenter also noted that default GWPs have not been published in a peer-reviewed scientific journal, which the EPA acknowledged ''helps to ensure that the data and methods used to evaluate the GWPs are consistent with current scientific good practice and thereby helps to ensure that the resulting GWPs are accurate.''

Response: As proposed, we are adding default GWPs to Table A–1. These default GWPs will be applied to fluorinated GHGs that do not have chemical-specific GWPs on Table A–1 (*i.e.,* fluorinated GHGs that did not have chemical-specific peer-reviewed GWPs available in time for this rulemaking). This is to ensure that the atmospheric impacts of all fluorinated GHGs are accounted for in GHGRP calculations and reporting.

The 12 default GWPs have been developed and will be applied based on fluorinated GHG group. For each fluorinated GHG group, we are basing the default GWP on the average of the peer-reviewed, chemical-specific GWPs of compounds that belong to that group and that are either on Table A–1 or are being added to Table A–1 under this rule. As noted by several commenters and by us in the proposed rule, the default GWPs are not expected to be as precise as chemical-specific GWPs, because they are based on averages for groups that exhibit some variation in their GWPs (although the groups have been selected to minimize this variation). Nevertheless, for each fluorinated GHG group, the default GWP is expected to be a non-biased predictor of the GWPs of fluorinated GHGs that belong to that group, including fluorinated GHGs that have not had chemical-specific GWPs published in the peer-reviewed literature. Importantly, the default GWP is expected to be a better predictor (and in some cases, a far better predictor) of such GWPs than zero, which is always an underestimate but is the GWP that has been used to date when no chemical-specific GWP was on Table A–1. Thus, adding the default GWPs to Table A–1 will significantly increase the accuracy of the CO_2e emissions that are calculated and reported under the GHGRP.

As noted in the proposal, the default GWPs will also increase the stability and predictability of calculated CO_2e emissions from facilities. As chemical-specific GWPs for GHGs are developed, peer reviewed, and added to Table A–1, the change from each default GWP to the chemical-specific GWP is likely to be smaller than the change from zero to the chemical-specific GWP. This will significantly reduce the magnitude of any future revisions to or inconsistencies in the time series of CO_2e emissions. At the same time, having a default GWP for each GHG may allow the EPA to update Table A–1 less frequently because the default would reduce the error in CO_2e estimates that presently arises from not having a chemical-specific GWP for that GHG on Table A–1.

Furthermore, we do not agree that adding chemical-specific GWPs and default GWPs at this time, or any future action to change these GWP values, will have implications for stationary source permitting that would justify not proceeding with this final action. The potential implications for permitting fall into two main categories. The first relates to the prospective triggering of permitting requirements at a source based on calculations of CO_2e using GWP values in regulations. The second relates to compliance with emissions limits in previously issued permits that may have limits expressed in the form of CO_2e calculated using the GWP values.

As a general matter and as explained above, the potential impact of these changes to GWP values on the PSD and title V permit requirements that might apply to sources based on the GWP values has been narrowed by the U.S. Supreme Court decision in *Utility Air*

[15] July 24 Memo at 3–5.

[16] The addition of very-low-GWP gases in Table A–1 that are not among the six listed above does not result in these gases becoming subject to permitting requirements under the Clean Air Act. The EPA had made clear that regulations that require monitoring and reporting of pollutant emissions do not make a pollutant subject to regulation. See 75 FR 17004, and 40 CFR 52.21(b)(49).

Regulatory Group v. *EPA* (No. 12–1146). Under that decision, sources cannot become subject to the requirement to obtain a permit as a major source under these permitting programs based solely on their emissions of GHGs, thereby limiting implications of changes to GWP values in this context. As also discussed above, the revisions to Table A–1 are otherwise not expected to have a significant impact on application of the PSD BACT requirement to GHGs at sources that continue to require a PSD permit based on emissions of other pollutants.

With respect to permits that have already been issued, as explained in a prior rulemaking relating to revisions to GWP values in Table A–1, the EPA does not expect the revised GWPs to be applied retroactively to prior permitting determinations and does not expect that previously approved PSD or title V permits would be reopened solely based on application of the revised GWPs in Table A–1 to prior years' emissions (78 FR 71916). As the EPA previously explained, compliance with GHG permit limits in existing, final PSD permits ''may be determined based on the GWPs that were effect at the time of permit issuance (even if the permit does not specify the applicable GWP value)'' (78 FR 71916). Likewise, with regard to determinations of whether PSD permitting requirements applied to a source previously permitted, the EPA has already explained that ''GWP revisions should not affect past permitting actions for a source that has obtained a final PSD permit before these revisions to Part 98 become effective, regardless of whether or not that PSD permit included GHG limits'' (78 FR 71916). Should sources have specific questions regarding application of the new GWP values to previously approved PSD or title V permits, they should contact their permitting authority or their respective EPA regional office.

While there should be little to no impact on both categories of permitting requirements based on this final action to add chemical-specific GWPs and default GWPs for the reasons explained above, sources are encouraged to talk to the appropriate permitting authority to the extent that questions arise regarding specific permitting requirements that apply or might apply to their GHG emissions.

One commenter argued that establishing default GWPs was inconsistent with the practice of the IPCC and therefore diverged from accepted international practice, subjecting U.S. facilities to a different standard than competitors in the World Semiconductor Council (WSC) and elsewhere. As noted above, we believe that consistency between the GHGRP and other national and international policies and programs is important for the GHGs that are included in AR4; for these GHGs, the improvement in accuracy that would be associated with the use of more recent GWPs (*e.g.,* from the Comprehensive Review or from AR5) does not justify the loss of consistency with UNFCCC reporting that would result. However, for the GHGs that are not included in AR4, the improvement in accuracy associated with the assignment of default GWPs rather than a GWP of zero does not result in a loss of consistency with UNFCCC reporting, since the UNFCCC does not require the use of AR4 GWPs for reporting emissions of these GHGs. In fact, the use of default GWPs facilitates compliance with the UNFCCC Reporting Guidelines, which ''strongly encourage'' Annex I Parties ''to also report emissions and removals of additional GHGs'' (*i.e.,* GHGs whose GWPs are not included in AR4). To the extent that other consistency issues arise, the EPA and GHGRP stakeholders such as the WSC can make adjustments to GHGRP or other data sets to ensure comparability between those sets (*e.g.,* to measure progress toward WSC goals).

Regarding the comment that it would be difficult to assign fluorinated GHGs to the correct fluorinated GHG group (and therefore to select the correct default GWP), we have deliberately defined the groups based on easily ascertained criteria related to chemical structure. To further facilitate selection of the correct default GWP, we intend to automatically assign it through our data system for commonly used fluorinated GHGs and HTFs that are reported under the GHGRP, such as fully fluorinated HTFs used in electronics manufacturing. Thus, we do not expect that selection of the correct default GWP will impose a significant burden on reporting facilities.

B. Amendments to Subpart L Reporting Requirements

1. Summary of Final Amendments to Subpart L Reporting Requirements

As proposed, the EPA is permanently amending the subpart L reporting requirements to require reporting at a more aggregated level than in the 2010 subpart L rule. Specifically, we are requiring owners and operators of facilities producing fluorinated gases to report (1) emissions by fluorinated GHG group (chemical type) at the process level for each generically defined production or transformation process, and (2) emissions by chemical at the facility level for certain fluorinated GHG emissions. These changes apply only to emissions from production and transformation processes; emissions from venting of container heels and destruction of previously produced fluorinated GHGs must be reported by chemical and by process as required by the 2010 Subpart L Rule.

Fluorinated GHG emissions from production and transformation processes must be reported by chemical at the facility level when (a) the fluorinated GHG is emitted in quantities above 1,000 metric tons CO_2e ($mtCO_2e$) and the facility produces more than one fluorinated gas product,[17] or (b) for facilities that produce only one fluorinated gas product, the fluorinated GHG emitted is a major fluorinated GHG constituent of a fluorinated gas product and the fluorinated gas product is sold or otherwise transferred to another person. (Other fluorinated GHG emissions from production and transformation processes at the facility level will be reported by chemical type.) Where the emission factor or emission calculation factor approaches are used, facilities are required to further disaggregate process emissions by emission type (*i.e.,* into vented vs. leaked emissions). In addition to the changes above, we are replacing the requirements to report process-specific emission factors, activity data, and destruction efficiencies with a requirement to identify, as a range, the level by which the emissions of each process are reduced or controlled (*e.g.,* by destruction devices). We are also removing the requirement that facilities report the following data elements: the contents, locations, and functions of the streams analyzed under the scoping speciation (40 CFR 98.126(a)(3) and (a)(4)).

All of these changes (as well as the revised default GWPs and fluorinated GHG groups, discussed in Sections II.A and II.B.5 of this preamble) will apply to (previously deferred) reporting for RYs 2011, 2012, and 2013 (*i.e.,* reporting of emissions that occurred in 2011, 2012, and 2013), as well as to reporting for emissions that occur in 2014 and later years.

To consolidate all of the revisions to subpart L that are related to disclosure concerns, the EPA also is finalizing in this action the alternative verification approach that was proposed for subpart L in the Proposed Inputs Rule. (In the Proposed Amendments to Subpart L, we

[17] We are defining fluorinated gas product as the product of the process, including isolated intermediates.

discussed the relationship between those amendments and the amendments that were proposed in the Proposed Inputs Rule, and we made available a version of the subpart L regulatory text as it would be amended by both actions (78 FR 69340).) The alternative verification approach for subpart L is the same as that in the Final Inputs Rule, except that the requirement for subpart L reporters to use IVT will apply to RY 2015 and later reporting years. This is necessary to allow the EPA to develop a subpart L IVT module that integrates the subpart L reporting requirements being finalized in this action.

As noted in the Proposed Inputs Rule, the inputs verification tool is designed to be used concurrently with annual reporting by facilities. While additional verification could be conducted on past years' data if the inputs verification tool were used for those years, for the reasons stated in the Proposed Inputs Rule, the EPA has determined that the added benefit does not outweigh the burden that would be required for facilities to use the inputs verification tool for years that will already have been reported in full by the time the tool is available for use. For further details, please see the Proposed Inputs Rule (78 FR 56004). As noted above, facilities will be submitting full subpart L reports for Reporting Years 2011, 2012, and 2013 in calendar year 2015.

As described in the Proposed Inputs Rule, the EPA is currently using a two-step verification approach for the GHGRP:

- Initial automated review of reported data, using an electronic data quality assurance program built into the data system, for use by reporters and the EPA to help assure the completeness and accuracy of data.
- Based on the initial review results, follow up with facilities regarding potential errors, discrepancies, or questions, including on-site audits.

Until the Inputs Verification Tool is in place, the EPA intends to continue to verify subpart L emissions using this approach. The EPA may also perform manual checks. More specifically, the EPA intends to look at expected emission levels and patterns, internal consistency, consistency with emissions reported previously by the same facility, consistency with emissions reported by other fluorinated gas production facilities, and report completeness.

We are also finalizing revisions to Table A–7 by removing all subpart L inputs to equations from Table A–7. With the exception of the data elements in 98.126(b)(10), (11), and (12), which were addressed in the Proposed Amendments to Subpart L, the Proposed Inputs Rule proposed to remove all subpart L inputs to equations from Table A–7. We are finalizing these provisions as proposed. With respect to the data elements in 98.126(b)(10), (11), and (12), these data elements were proposed to be removed from the subpart L provisions in the Proposed Amendments to Subpart L; however, we inadvertently did not make the corresponding changes in Table A–7. As a result, consistent with the Proposed Amendments to Subpart L, we are making the corresponding change in Table A–7 and removing the data elements in 98.126(b)(10), (11), and (12) from Table A–7 in this action.

2. Changes From the Proposed Rules

a. Changes to Provisions Proposed in the Proposed Amendments to Subpart L

The EPA is making minor changes to the reporting requirements proposed in the Proposed Amendments to Subpart L to clarify and streamline them. First, we are not finalizing two proposed reporting provisions that would be redundant with two existing reporting provisions. Specifically, we are not finalizing the proposed paragraphs 98.126(a)(6)(i) and (ii), which would have required reporting of emissions from destruction of previously produced fluorinated GHGs and emissions of container heels, because paragraphs 98.126(g) and (h) already require this reporting. However, we are slightly revising 98.126(h) to require reporting of aggregate emissions of each fluorinated GHG across container types and sizes (rather than for each container type and size) as would have been required by the proposed 98.126(a)(6)(i). Reporting of emissions by container type and size is no longer useful for verification given the removal of the requirement to report heel factors by container type and size. Second, we are clarifying in several places that the requirements to report facility-level emissions by chemical or by fluorinated GHG group apply only to emissions from production and transformation processes. Because emissions from container venting and destruction of previously produced fluorinated GHGs are already required to be reported by chemical from each of these activities, it is not necessary to report them again at the facility level (except as part of the total CO_2e emissions for the facility reported under 98.3(c)(4)(i)).

Third, the EPA is removing 98.126(f)(5), the requirement to submit a revised destruction device testing report when changes to the destruction device would be expected to affect the destruction efficiency (DE). This change is necessary for consistency with our removal of the requirement to report the original DE at 98.126(f)(1). As discussed in the Proposed Amendments to Subpart L, we identified potential disclosure concerns associated with reporting of exact destruction efficiencies at the process level under subpart L. These concerns apply to revised destruction efficiencies as well as to original destruction efficiencies. To ensure that we continue to receive useful information on the level of control for each process, we are finalizing our proposal to replace the requirement to report exact destruction efficiencies with the requirement to report, as a range, the effective DE of each process (78 FR 69348–49).

In addition to these changes, we have revised the proposed fluorinated GHG groups and default GWPs in response to comments. These changes are discussed below in Section II.B.2.b.

b. Changes to Provisions Proposed Relative to the Alternative Verification Approach

As previously mentioned, the Proposed Inputs Rule included an alternative verification approach and associated reporting and recordkeeping requirements. This section discusses the changes since proposal.

First, we are not finalizing the entry of the inputs to the mass-balance equations into IVT as proposed in the Proposed Inputs rule. Shortly after issuing the Proposed Inputs Rule, we proposed to remove the mass-balance approach altogether in the Proposed Amendments to Subpart L for the reasons provided in the proposal. As discussed in Section II.C of this preamble, we are finalizing the removal of the mass-balance method through this action. Because the mass-balance equations are no longer in subpart L, we are not requiring the entry of the inputs to those equations into IVT.

Second, we are requiring entry of chemical-specific emissions from leaks for each process into IVT. In the Proposed Amendments to Subpart L, we proposed to replace the reporting of this data element with the reporting of CO_2e emissions by fluorinated GHG group from leaks for each process, which we believe will provide us adequate information for policy purposes while addressing the potential disclosure concerns associated with the reporting of chemical-specific emissions from process leaks. In our effort to consolidate all subpart L proposed revisions, including IVT, into one final action, we note that entry of chemical-specific emissions from leaks into IVT

will facilitate verification of the replacement data reporting element. Specifically, entry into IVT of chemical-specific emissions from leaks for each process will allow us to verify (1) the reported CO_2e emissions by fluorinated GHG group from leaks for each process, and (2) the emissions reported either by chemical or by fluorinated GHG group (in CO_2e) at the facility level. Emissions from leaks are included in facility totals in either chemical-specific or CO_2e terms, depending on the magnitude of the emissions of that chemical at the facility level. They are therefore a necessary link between the emissions from vents calculated by Equations L–21, L–22, L–26, and L–27, which the EPA proposed to verify using IVT, and the emissions that will actually be reported at the facility level under these amendments. In light of the above, we are requiring in this final rule that chemical-specific emissions from leaks for each process be entered into IVT, along with certain inputs to emission equations, as part of the alternative verification approach.

Third, for clarity, we are adding an explicit requirement to report the generically identified process for which missing data are reported under 40 CFR 98.126(d). This is in addition to the revisions to 98.126(d) that were proposed in the Inputs Rule, which we are also finalizing in today's action. Because emissions from fluorinated gas production are monitored and calculated at the process level, identification of the process is within the subpart A requirement to report ''each data element for which a missing data procedure was used according to the procedures of an applicable subpart'' at 98.3(c)(8). However, to the extent there is any potential ambiguity, the addition clarifies the requirement to report the generically identified process.

Finally, we are not finalizing our proposal to enter the data elements in Equations L–20, L–23, and L–25 into IVT. These data elements, which are not required to be reported to EPA, were inadvertently included in the group of subpart L inputs to emission equations to be entered into IVT in the Proposed Inputs Rule. Equation L–20 is used to calculate emission factors from multiple individual emission factor measurements; Equation L–23 is used to calculate adjusted process-vent-specific emission factors in the event of a process change; and Equation L–25 is used to calculate emission calculation factors based on emissions calculated using chemical engineering principles or engineering assessments. These factors are required to be measured and calculated only once every ten years or if there is a change to the process. The calculations used to develop the emission factors and emission calculation factors are important for ensuring that facilities have correctly complied with subpart L's requirements, but they are not essential for verifying emission calculations every year. Further, individual emission factor measurements are required to be included in the emissions test report under 40 CFR 98.124(c)(5), which is kept as a record under 40 CFR 127(d)(4). Similarly, emission factor calculations are required to be kept as records under 40 CFR 127(d)(5). For the reasons stated above, we are not finalizing the entry of the data elements in Equations L–20, L–23, and L–25 into IVT.

3. Summary of Comments and Responses on Proposed Amendments to Reporting Requirements

Comment: Three commenters supported the proposed replacement of chemical-specific reporting at the process level with two levels of more aggregated reporting. The commenters noted that grouping of classes of compounds will aid in protecting information about which they have disclosure concerns. Two of the commenters specifically agreed with the proposal that facilities be required to report emissions of fluorinated GHGs by chemical when emissions of that fluorinated GHG exceed 1,000 $mtCO_2e$ for the facility as a whole. An additional commenter noted that compound-specific reporting at the facility level is sufficient to support efforts to identify and resolve differences between ''bottom-up'' emission estimates based on inventory methods and ''top-down'' emission estimates based on changing atmospheric concentrations. Two commenters agreed that a facility producing only one fluorinated gas should report emissions only by fluorinated GHG group, unless the emissions consist of a major fluorinated GHG constituent of the fluorinated gas product and that product is sold or transferred to another facility.

One commenter objected to the proposal to replace some chemical-specific reporting with aggregate reporting. The commenter stated that the proposal to require less information and ''generic, melded information''—instead of process-specific and/or chemical specific information—would undermine the EPA's mission to protect the health and safety of the American public and the environment and the public's ability to monitor the use of HFCs nationwide. The commenter asserted that the EPA's proposal would materially reduce the amount and quality of information available to inform future policy and that the proposal would require significantly fewer facilities to submit data compared to the original rule. In several cases, the commenter referred to drawbacks that the EPA identified in the proposed rule for alternatives to the preferred approach. The commenter suggested that certain facilities that meet specified criteria could report their fluorinated GHG emissions in a less detailed manner. The commenter further suggested that one of these criteria could be whether or not the facility is producing a unique product as opposed to a widely produced HFC.

Response: As discussed above, we are finalizing the amendments to the reporting requirements as proposed. We agree with several of the commenters that the amendments will address disclosure concerns while allowing the EPA to collect the data necessary to inform the development of future GHG policies and programs. This includes data on the magnitudes (in CO_2e), GWPs, atmospheric lifetimes, and sources (vents or leaks) of emissions at the process level and data on the exact chemical identities and magnitudes of significant emissions (those that exceed the 1,000 $mtCO_2e$ threshold) at the facility level. As discussed in the preamble to the proposed rule, process-specific emissions information allows the EPA to identify processes with high potential for emission reductions as well as measures to achieve those reductions. Chemical-specific information allows the EPA, as well as the public and the international community, to better understand the atmospheric impacts of U.S. emissions, to compare U.S. emissions to atmospheric measurements, and, if inconsistencies between emissions and atmospheric measurements are found, to better understand the magnitudes and causes of those inconsistencies. We have concluded that the data that will be collected under this final rule will enable us to meet these objectives.

Contrary to the statements of one of the commenters, the amendments will generally continue to require reporting of process-specific as well as chemical-specific information. Under the final rule, facilities making more than one fluorinated gas product must report their process-specific emissions by fluorinated GHG group in CO_2e, and they must identify their processes by process type and subtype and a generic identifier that will remain the same from year to year. Together, these requirements will enable the EPA and the public to identify processes that are reducing emissions or that have

potential to reduce emissions significantly and/or cost-effectively (*e.g.,* because the emissions are large and/or belong to a fluorinated GHG group with a relatively high GWP). (The requirement to report the effective DE range applied to each process will further inform such analyses.) In addition, facilities making more than one fluorinated gas product are required to report their facility-level emissions of fluorinated GHGs by chemical when the emissions of that chemical exceed 1,000 $mtCO_2e$. This will enable the EPA to identify fluorinated GHGs (including individual HFCs) with high emissions and to compare emissions to atmospheric measurements.

Facilities making only one fluorinated gas product are required to report their facility-wide emissions by fluorinated GHG group in CO_2e, except they must report the emissions by fluorinated GHG when that fluorinated GHG is a major fluorinated GHG constituent of a fluorinated gas product and the fluorinated gas product is sold or otherwise transferred to another person. For facilities making only one fluorinated gas product, the facility emissions are likely to result from relatively few processes (and possibly only one), meaning that even in this case, the reported emissions are likely to be close to process-specific emissions. (We believe that only one or two facilities are likely to make only one fluorinated gas product, which includes intermediates that are fluorinated gases.)

Also contrary to the statements of one of the commenters, these amendments will not require fewer facilities to submit data. The amendments do not affect the applicability of subpart L; all facilities that have reported to date and that would have reported under the 2010 Subpart L final rule if unchanged going forward will report under these amendments.

Because we have concluded that the data to be collected under this rule are sufficient to inform the development of future GHG policies and programs with respect to emissions from the production of all fluorinated gases, we are not pursuing an approach that would impose different reporting requirements for facilities or processes that produce ''unique'' vs. ''commonly made'' fluorinated gases. In addition to being unnecessary, that approach would require the development and application of criteria to determine which products or processes are ''unique,'' which would impose an administrative burden both on the Agency and on the regulated community, and which would likely further delay process- and chemical-specific reporting from fluorinated gas producers. One of the challenges of developing and applying such criteria would be that unique processes are sometimes used to produce even commonly made fluorinated GHGs, including commonly made HFCs.

We agree with one of the commenters that several of the alternatives to the approach being finalized in today's rule, such as not distinguishing between transformation processes that do and do not transform fluorinated GHGs produced at another facility, would have reduced the usefulness of the data reported to the EPA. We did not receive any comments supporting these alternatives and we are not adopting them in today's final rule.

Comment: Two commenters stated that they did not anticipate that there would be export control limitations in complying with the proposed reporting requirements. However, they stated that in future reporting years, facilities would be obligated to comply with export control requirements in the event that any portion of the information reported was subject to export control regulations. One of these commenters suggested that the EPA either ''use its enforcement discretion and determine appropriately that the company could not comply with the GHGRP requirements'' or provide a ''CBI Petition Process'' to ''address those very infrequent occasions where confidentiality/export control issues are a concern and could not have been reasonably anticipated at the time of comment on the rule.'' The other commenter suggested that the EPA provide exemptions for export control information where confidentiality issues were not reasonably understood at the time of rule promulgation.

Response: We are not establishing a petition or exemption process under which a subpart L reporter could withhold reporting on the theory that reporting would disclose sensitive information. Based on the record for this rulemaking, including several years of discussion with the industry, extensive analysis by the EPA, and the comments submitted on the proposed rule, we believe that the amendments to the subpart L reporting requirements being promulgated today adequately address the disclosure concerns raised by the industry. We expect that the likelihood that an unanticipated disclosure concern would arise is quite low, and we have concluded that this possibility does not warrant the administrative burden associated with the development of a petition process. Moreover, due to the detailed information required to be reported, a petition process could cause long delays, and potential confusion, in the release of non-confidential data. Should a disclosure concern arise, we encourage reporters to bring it to our attention expeditiously so that we can consider it.

Comment: Two commenters supported the proposed threshold of 1,000 $mtCO_2e$ at the facility level for reporting emissions by chemical rather than by chemical group. Both commenters noted that this would reduce the number of speciated fluorinated GHGs that would be identified, thereby reducing the chemical-specific information potentially available to competitors. One commenter stated that, from a verification perspective, it would make sense to set the threshold as a percentage of total national production of the compound or of facility-wide emissions.

One commenter agreed that a threshold is ''one way that true CBI concerns could be addressed'' and that the threshold should be set in CO_2e; however, the commenter considered 1,000 $mtCO_2e$ to be too high and asserted that the proposed regulations and comments provided no basis for this threshold. The commenter stated facilities that would like to protect disclosure of confidential catalysts or additives should provide an argument based on actual production practices that justify such a high threshold, and suggested that a threshold of 100 $mtCO_2e$ may be protective.

Response: We are finalizing the 1,000 $mtCO_2e$ threshold for chemical-specific reporting as proposed. As noted in the proposed rule, we proposed the 1,000 $mtCO_2e$ threshold based on information from a fluorinated gas producer indicating that the vast majority of its CO_2e emissions consist of fluorinated GHGs that are emitted in quantities of one ton or more from the facility as a whole. Using a GWP of 1,000, which is relatively low for fluorinated GHGs in general, this equates to 1,000 $mtCO_2e$. (Note that using a higher GWP would result in a higher CO_2e threshold (*e.g.,* 10,000 $mtCO_2e$ for fluorinated GHGs that have a GWP of 10,000).) The producer also noted that the fluorinated GHGs that are emitted in quantities of one ton or more make up a small fraction of the number of individual fluorinated GHGs emitted. Thus, setting the threshold for chemical-specific reporting at 1,000 $mtCO_2e$ is expected to result in the reporting of the majority of CO_2e emissions in chemical-specific terms, while avoiding the disclosure of detailed process information.

We agree with two of the commenters that it is important to consider the

relationship between the threshold and typical facility-wide and nationwide emissions. Because the reporting under subpart L to date has been only in terms of CO_2e rather than by chemical, we do not yet know the exact percentage of each facility's emissions that will be reported in chemical-specific terms. However, we do know that the average fluorinated GHG emissions reported under subpart L by each facility can be large: about 415,000 $mtCO_2e$ per facility with a national total of 6.6 million $mtCO_2e$ in 2012. The 1,000-$mtCO_2e$ threshold comprises 0.2 percent of this average. If 10 fluorinated GHGs were emitted below the threshold level, emissions of these fluorinated GHGs would make up less than 2 percent of the average, and even emissions of 50 fluorinated GHGs below the threshold would make up less than 10 percent of the average. While some facilities have emissions that are higher or lower than the average, implying that the percentage of emissions that will be reported in chemical-specific terms could be higher or lower than average at those facilities, we have concluded that this variability is reasonable given the varying environmental impacts of the emissions from those facilities. A single numerical threshold is also simpler to implement than a threshold expressed as a fraction of facility emissions. Thus, we are adopting the former rather than the latter. Although we have concluded that setting this threshold equal to 1,000 $mtCO_2e$ is reasonable based on the information available to us at this time, we may reevaluate this threshold if we find that a large share of national emissions are not being reported in chemical-specific terms at the facility level once reporting begins under these amendments.

Comment: One commenter stated the proposed ranges for effective reporting DE were sufficient for the purposes of the GHGRP. The commenter did, however, question whether that information will be more useful to the EPA than simply requiring an indication regarding whether each process is controlled. The commenter pointed out that destruction efficiencies alone are not indicative of the effectiveness of a control device.

Response: We are finalizing the calculation method and ranges for the effective DE as proposed. We agree with the commenter that destruction efficiencies alone do not fully characterize the effectiveness of control devices in reducing emissions. This is why the calculation of the effective DE takes into consideration the downtime of the destruction device. As discussed in the preamble to the proposed rule, downtime can significantly increase emissions. The requirement to calculate and specify a range for the effective DE therefore provides significantly more information than simply reporting the unweighted DE or indicating whether or not a process is controlled by a destruction device.

Comment: One commenter stated that reporting the effective DE for processes >10,000 $mtCO_2e$ will greatly benefit the effectiveness of the reporting program and enhance data reliability. The commenter noted that the operation of destruction technology is a key element of best practices. The commenter stated there is no significant burden for facilities to report both the DE and the downtime and opined that destruction device downtime cannot be considered CBI and should be disclosed. The commenter suggested that facilities also report whether they have in-line destruction equipment or whether they collect and transport HFCs to a central destruction facility.

Response: We agree that reporting the effective DE, which accounts for both the DE and the downtime of destruction devices, will significantly enhance the value of the data (particularly process-level data) collected under subpart L. In the proposed subpart L amendments, the EPA proposed to report the effective destruction efficiency as a range. In support, the EPA noted in that proposal that in the memorandum entitled ''Evaluation of Competitive Harm From Disclosure of 'Inputs to Equations,' '' we found that reporting the precise DE under subpart L posed disclosure concerns because the DE provides data that could be used with certain other data to calculate the production rate and/or process efficiency (cost to do business) (78 FR 69348).[18] Specifically, the DE could be used with other data to calculate the production rate or the amount of fluorinated GHG in a destroyed stream removed from the process and sent to a destruction device. This finding, which was unchanged in the Final Inputs Rule, applies even more to the combination of DE and downtime, which, as noted by the commenter, provides a more accurate measure of the extent to which emissions are being reduced than DE alone. In addition, the EPA explained in the proposed subpart L amendments that reporting the effective DE as a range will capture the impacts of destruction efficiencies and downtimes while avoiding the disclosure of detailed process information (78 FR 69349). The commenter generally asserts that the destruction device downtime cannot be considered CBI but provides no supporting rationale or information. The commenter also expresses no disagreement with EPA's assertion that reporting the effective destruction efficiency as a range will capture the impacts of destruction efficiencies and downtimes. We are therefore finalizing the reporting of the effective destruction efficiency as a range, as proposed. Regarding the comment that sources should report whether they have in-line destruction equipment or whether they collect and transport HFCs to a central destruction facility, the requirement that facilities report their effective destruction efficiency for each process will capture any variability in the uptime or overall destruction efficiency associated with the use of different configurations of destruction devices at the facility. As a result, this specific information is not needed.

Comment: One commenter stated that the chemical specific emissions in 98.126(a)(6) (regarding venting of residual fluorinated GHGs from returned containers) should be reported as part of the facility-wide totals required in 98.122(d). The commenter indicated it is not clear whether chemical-specific emissions reported under 40 CFR 98.126(d)(6)(ii) would impact the confidentiality issues that the EPA is addressing for subpart OO. The commenter stated that container heel venting for materials ''returned from the field'' would provide information on a specific product that may be CBI under subpart OO. (In a follow-up conversation with the EPA, the commenter clarified that this information was the chemical identity of the product.)[19]

Response: As noted in Section II.A.2 of this preamble, the proposed reporting requirement at 40 CFR 98.126(a)(6)(ii), which would require reporting of the mass of each fluorinated GHG that is emitted from returned containers, inadvertently repeated the current reporting requirement at 40 CFR 98.126(h)(1), and we are therefore not finalizing 40 CFR 98.126(a)(6)(ii) in this final rule.

As discussed in the preamble to the Proposed Amendments to Subpart L (78 FR 69350), we did not propose to remove 40 CFR 98.126(h)(1) because commenters on previous actions did not identify the requirement to report chemical-specific emissions of container

[18] August, 2013, available in Docket EPA–HQ–OAR–2010–0929. This finding was reiterated in the memorandum entitled ''Final Evaluation of Competitive Harm From Disclosure of 'Inputs to Equations' '' Data Elements Deferred to March 31, 2015, September, 2014.

[19] See docket EPA–HQ–OAR–2009–0927 for additional information.

heels as one of the reporting requirements that pose disclosure concerns, and we did not believe that the requirement posed such concerns. As we explained in the proposal, container heels consist of the residual fluorinated GHGs that remain in containers returned to gas manufacturers by their customers. If the fluorinated GHG has been sold or otherwise distributed to a customer, its identity can be ascertained by a person other than the fluorinated gas manufacturer, including a competitor. This is the same principle that we used to support our proposal to require reporting of emissions of the fluorinated GHG product by facilities that make one product and sell or otherwise distribute it to another person. Thus, we are not removing the requirement at 40 CFR 98.126(h)(1) to report the masses of residual fluorinated GHGs vented from containers.

We do not believe that the subpart L requirement for fluorinated GHG producers to report the mass of each fluorinated GHG that is emitted from returned containers impacts confidentiality determinations for fluorinated GHG producers under subpart OO, which applies to suppliers of industrial GHGs. Under subpart OO, we determined that the mass of the fluorinated GHG product produced and reported is CBI. We did not address whether the identity of the fluorinated GHG product produced and reported was CBI.

4. Summary of Comments on Amendments to Subpart L Inputs Proposed in the Proposed Inputs Rule

Comment: One commenter stated that withdrawing the requirements to report the mass and quantity of production of gases and the DE does not protect a valid CBI concern and is a great disservice to the public. The commenter specifically identified the following paragraphs as areas of concern: 40 CFR 98.126(b)(5) through (b)(9), (f)(1), (g)(1), and (h)(2). The commenter argued that the amounts of gases produced and the destruction efficiencies would not disclose the methodologies for making those substances or protect appropriate CBI concerns ''anymore than a farmer not disclosing the amount of corn grown on a hectare of land would protect CBI.'' According to the commenter, a review of the DE helps evaluate the efficiency of different technologies, whether companies are optimizing the equipment and whether different collection techniques such as collection and destruction at a central facility are as effective as an in-line destruction technology. The commenter concluded that the EPA should withdraw these proposed changes as the needs of public transparency outweigh any alleged CBI concern.

Response: The commenter specifically objects to the removal of reporting requirements in 40 CFR 98.126(b)(5)–(9), (f)(1), (g)(1), and (h)(2). The EPA has categorized these data elements as ''inputs to equations,'' except for those in 40 CFR 98.126(b)(5). As stated in the proposed rule deferring the requirement to report inputs to equations, ''For any inputs, the release of which EPA determines could result in the business harms alleged by commenters, EPA would evaluate whether emissions can be calculated or verified using additional methodologies, consistent with the transparency and accuracy goals of Part 98, without EPA collecting these inputs'' (75 FR 81355). We examined the data elements for which reporting was deferred to 2015, as described in the Proposed Inputs Rule (78 FR 55994). Our evaluation involved a four-step process. The results of this evaluation were documented in the four following memoranda available in the EPA's Docket ID No. EPA–HQ–OAR–2010–0929:

- ''Evaluation of Public Availability of Inputs to Emission Equations for which Reporting was Deferred to March 31, 2015,'' August 2013.
- ''Evaluation of Competitive Harm from Disclosure of 'Inputs to Equations' Data Elements Deferred to March 31, 2015,'' August 2013.
- ''Evaluation of Alternative Calculation Methods,'' August 2013.
- ''Evaluation of Alternative Verification Approaches For Greenhouse Gas Reporting Rule Subparts for which Reporting of Inputs to Emission Equations was Deferred to March 31, 2015,'' August 2013.

Based on the results of the first and second steps of the evaluation (evaluation of public availability and competitive harm), the EPA identified disclosure concerns associated with the subpart L inputs to equations reporting elements mentioned by the commenter.

The EPA determined in its memorandum ''Evaluation of Competitive Harm from Disclosure of 'Inputs to Equations' Data Elements Deferred to March 31, 2015,'' August 2013 (refer to Docket ID No. EPA–HQ–OAR–2010–0929) that the following inputs to emission equations provide production or raw material data that could cause competitive harm if released: The mass of each fluorine-containing reactant that is fed into the process (40 CFR 98.126(b)(6)); the mass of each fluorine-containing product produced by the process (40 CFR 98.126(b)(7)); the mass of each fluorine-containing product, by-product, and reactant that are removed from the process and fed into the destruction device (40 CFR 98.126(b)(8)(i)–(iii)); the mass of each fluorine-containing by-product that is removed from the process and recaptured (40 CFR 98.126(b)(8)(iv)); the mass of fluorine in each stream that is fed into the destruction device (40 CFR 98.126(b)(9)(i)); the mass of fluorine that is recaptured (40 CFR 98.126(b)(9)(ii)); and the mass of the fluorinated GHG fed into the destruction device (40 CFR 98.126(g)(1)). The competitive harm evaluation further explains that the demonstrated DE of the destruction device for each fluorinated GHG fed into the device from the process (40 CFR 98.126(b)(8)(v)), the weighted average DE of the destruction device calculated for each stream (40 CFR 98.126(b)(9)(iii)), and the DE of each destruction device for each fluorinated GHG whose destruction the facility reflects in 40 CFR 98.123 (40 CFR 98.126(f)(1) provide data that could be used to calculate the amount of fluorinated GHG in a waste stream removed from the process and sent to a destruction device. Competitors could deduce the amount of fluorinated GHG sent to a destruction device if the annual emissions of each fluorinated GHG (as required to be reported under 40 CFR 98.126(a)(2)) are known and if it could be deduced that the emissions consist exclusively of post-destruction device emissions (information that a competitor knowledgeable of some aspects of the facility and/or of fluorine chemistry might deduce).

We proposed that these inputs to equations would be entered into IVT instead of being reported to the EPA. The commenter asserted that the amounts of gases produced and the destruction efficiencies would not disclose the methodologies for making those substances; however, it is not the potential disclosure of production methods that is of concern for these data elements, but the ability to calculate production and process efficiency from the release of these data. As discussed in the proposed competitive harm evaluation and reiterated in final competitive harm memorandum (which was unchanged from the proposed memo for subpart L), disclosing a facility's production or throughput data would be detrimental to a firm's competitiveness by revealing confidential process information and operational and marketing strategies, and disclosing process performance and operation information could be

detrimental to a firm's competitiveness by revealing process efficiency, providing insight into a firm's operational strengths and weaknesses. As a result, our finding that disclosure of these inputs to equation would be detrimental to a firm's competitiveness still stands. Refer to the memorandum ''Final Evaluation of Competitive Harm from Disclosure of ''Inputs to Equations'' Data Elements Deferred to March 31, 2015'' September 2014 (refer to Docket ID No. EPA–HQ–OAR–2010–0929) for additional details on this finding. We are therefore finalizing as proposed, with the exception being that the inputs to equation in 40 CFR 98.126(b) will not be entered into IVT. These inputs are specific to the mass balance method, which is being removed in this action. As a result, since the use of IVT will start for reporting year 2015 for subpart L, the mass balance method will no longer be a method in subpart L. As discussed earlier in this section of the preamble, we are also requiring the effective DE to be reported as a range, which will capture the impacts of destruction efficiencies and downtimes while avoiding the disclosure of detailed process information.

Finally, for the heel factor calculated for each container size and type (40 CFR 98.126(h)(2)), the EPA determined in the harm evaluation that these data could be used to calculate the number of tanks processed if the emissions from each type of container (as required to be reported in 40 CFR 98.126(h)(1)) are also known. (The confidentiality determination for the emissions from each type of container as required to be reported in 40 CFR 98.126(h)(1) is being finalized in this action as emission data.) The number of each type of tank processed and the size of the tanks could provide insight into product sales. Again, the commenter did not provide any rationale for reversing these findings beyond asserting that the mass and amount of gases produced and the destruction efficiency rates will not disclose the methodologies for making the substances. As a result, our finding that the heel factor could provide insight into product sales still stands, and we are finalizing as proposed that this input to equation be entered into IVT rather than reported to the EPA.

With respect to the mass of F–GHG by-product emitted from the process (40 CFR 98.126(b)(5)), this data element is not an input to an equation and was therefore not included in the Proposed Inputs rule. It was, however, part of the Proposed Amendments to Subpart L. As discussed in the Proposed Amendments to Subpart L, the data element may reveal detailed process information. The EPA proposed to delete this reporting element as part of its removal of the mass balance method, and the EPA is finalizing the removal of this method in this action.

5. Fluorinated GHG Groups

a. Summary of Fluorinated GHG Groups

We are establishing 12 fluorinated GHG groups into which subpart L facilities will sort emissions for reporting at the process level. These groups are the same as those established for purposes of developing and assigning the default GWPs being added to Table A–1, discussed in Section II.B.

b. Changes Since the Proposed Amendments to Subpart L

We proposed to establish five fluorinated GHG groups for process-level reporting under subpart L: (1) Fully fluorinated GHGs and HTFs, (2) saturated HFCs, (3) saturated HFEs and saturated HCFEs, (4) unsaturated PFCs, unsaturated HFCs, unsaturated HCFCs, unsaturated HFEs, and fluorinated ketones, and (5) other fluorinated GHGs and HTFs. Commenters requested that we split the third group, expand the fourth group, and add two additional groups, fluorotelomer alcohols and fluorinated GHGs with carbon-iodine bonds, to increase the precision and accuracy of the default GWPs applied to the chemicals in these groups. One commenter stated that five types of compounds, including unsaturated fluorinated ethers, unsaturated halogenated esters, fluorinated aldehydes, fluorotelomer alcohols,[20] and fluorinated GHGs with carbon iodine bonds, would have been assigned GWPs that were too high if they had remained in the ''Other'' category. Another commenter stated that two types of saturated HFEs and HCFEs would have been assigned GWPs that were, on average, either too high (for partially segregated saturated HFEs and HCFEs) or too low (for non-segregated saturated HFEs and HCFEs).

We agreed with these comments and consequently included the suggested additional fluorinated GHG groups and associated default GWPs in the Proposed Rule to Add GWPs. We also proposed that the group of unsaturated compounds include unsaturated fluorinated ethers, unsaturated halogenated esters, and fluorinated aldehydes. Following additional research and the receipt of comments on the Proposed Rule to Add GWPs, we decided to add four additional fluorinated GHG groups, as described in Section II.A.2. In addition to increasing the precision and accuracy of the default GWPs, these changes increase the precision of the subpart L process-level reporting that relies on these chemical groups. The analysis supporting the fluorinated GHG groups and associated default GWPs can be found in the memorandum entitled ''Analysis of Fluorinated Greenhouse Gas Groups and Associated Default GWPs (Revised, November 2014)'' in Docket number EPA–HQ–OAR–2009–0927.

c. Comments Received on the Proposed Amendments to Subpart L Regarding Fluorinated GHG Groups and Responses

Comment: Three commenters supported the establishment of fluorinated GHG groups based on chemical type for purposes of aggregating process-level emissions and setting default GWPs, although each commenter suggested revisions to the proposed groups.

Response: We agree that establishing fluorinated GHG groups and GWPs based on chemical type helps to ensure that the groupings and default GWPs convey accurate and precise information about the atmospheric impacts of the fluorinated GHGs that fall into the groups. The comments and responses regarding suggested changes to the proposed fluorinated GHG groups are discussed in Section II.B.5.b of this preamble and in the response to comments document for this rule in Docket number EPA–HQ–OAR–2009–0927.

Comment: Three commenters supported adding chemical-specific GWPs to Table A–1 when those values were established by an internationally recognized scientific body, peer-reviewed, or supported by adequate technical demonstrations.

Response: As discussed above, the EPA is amending Table A–1 to add 98 chemical-specific GWPs, which are primarily drawn from the IPCC AR5. A discussion of the EPA's criteria for including chemical-specific GWPs in Table A–1 can be found in the Proposed Rule to Add GWPs (79 FR 44332). As noted above, the new chemical-specific GWPs in Table A–1 will be applied to

[20] At one point in its comment, the commenter recommended establishing a separate group for fluorinated alcohols generally, which is a larger set than fluorotelomer alcohols, with an average GWP of approximately 25 (including fluorotelomer alcohols) or 30 (excluding fluorotelomer alcohols). Another commenter also recommended establishing a separate group to account for fluorinated GHGs with GWPs at or near a value of 10. As discussed in Section II.A of this preamble, we are establishing a separate fluorinated GHG group that has a default GWP of 30 and that includes, among other types of compounds, fluorinated alcohols other than fluorotelomer alcohols.

the fluorinated GHGs reported under subpart L, as appropriate, as well as under other subparts.

Comment: One commenter continued to believe that the ''best estimate'' approach currently contained in the subpart L rule [98.126(j)(3)] as an interim reporting construct is the most appropriate method for determining GWPs when they are not listed in Table A–1. However, the commenter appreciated the EPA's need to provide a consistent method for all reporters and the F–GHG groupings included in the subpart L proposal are acceptable. Another commenter supported the establishment of consistent default GWPs and stated that the best-estimate GWP process setup in the temporary subpart L reporting changes [98.126(j)(3)] led to doubts about the accuracy, reliability, and comparability of the data.

Response: As discussed in the Proposed Amendments to Subpart L (78 FR 69348), we believe that the replacement of ''best-estimate'' GWPs with multiple default GWPs based on fluorinated GHG group is important to ensuring the long-term consistency, accuracy, reliability, and comparability of CO_2e emissions estimates for fluorinated gas producers.

Comment: One commenter requested confirmation that when Table A–1 contains a chemical-specific GWP for a fluorinated GHG, that value will be used to calculate and report emissions, and that default values will be used only when chemical-specific values are not available. Emissions from each fluorinated GHG group would include compounds whose GWPs could be either chemical-specific or default values.

Response: The commenter is correct in this interpretation. To make this clear, we are finalizing the revisions to the definition of ''global warming potential'' that we proposed in the Proposed Rule to Add GWPs. This revision states that the chemical-specific GWPs in Table A–1 are required to be applied to GHGs that have chemical-specific GWPs listed in Table A–1, while the default GWPs in Table A–1 are required to be applied to fluorinated GHGs that do not have chemical-specific GWPs listed in Table A–1. This is the case even when emissions of the fluorinated GHGs are reported in terms of CO_2e by fluorinated GHG group. This will help to ensure that chemical-specific and default GWPs are applied correctly and consistently in CO_2e calculations for subpart L and across Part 98.

Comment: Two commenters stated that it is their understanding that the introduction of the new default GWPs would not affect threshold evaluations that have already been conducted under subpart L (*i.e.,* preliminary engineering estimates used to ascertain whether emissions testing is required). With the revised GWPs, one commenter noted it is possible that changes would occur in the calculations that are made under 40 CFR 98.123(c)(1) or (2) and that calculated emissions could increase above the 10,000 $mtCO_2e$ per year reporting threshold. The other commenter stated their understanding is that this would only be required for new processes or process changes. One commenter requested that the EPA clearly state that additional testing would not be required until some other process change required this to be completed.

Response: Fluorinated gas producers are not required to re-perform the preliminary calculations for each process vent emitting fluorinated GHGs whose GWPs are increasing under this rule. However, those preliminary calculations and the calculations performed for purposes of annual reporting are distinct. If the emissions that facilities calculate from a vent for purposes of annual reporting exceed the 10,000-metric-ton-CO_2e threshold based on the updated GWPs, they must perform emission testing on that vent during the following year. This is required by the current provisions of subpart L.

40 CFR 98.123(c)(2)(i) states: ''If the calculations under paragraph (c)(1) of this section, as well as any subsequent measurements and calculations under this subpart, indicate that the continuous process vent has fluorinated GHG emissions of less than 10,000 metric ton CO_2e per year, summed across all operating scenarios, then you may comply with either paragraph (c)(3) of this section (Emission Factor approach) or paragraph (c)(4) of this section (Emission Calculation Factor approach).'' 40 CFR 98.123(c)(2)(ii) states ''If the continuous process vent does not meet the criteria in paragraph (c)(2)(i) of this section then you must comply with the emission factor method specified in paragraph (c)(3) (Emission Factor Approach) of this section.''

In the monitoring provisions of subpart L, 40 CFR 98.124(c)(8) further states: ''If a continuous process vent with fluorinated GHG emissions less than 10,000 metric tons CO_2e, per 40 CFR 98.123(c)(2), is later found to have fluorinated GHG emissions of 10,000 metric tons CO_2e or greater, you must conduct the emission testing for the process vent during the following year and develop the process-vent-specific emission factor from the emissions testing.''

Together, these paragraphs require fluorinated gas production facilities to conduct emissions testing on continuous process vents whose emissions are calculated to exceed 10,000 metric tons of CO_2e per year either under the preliminary calculations of 40 CFR 98.123(c)(1) or under subsequent measurements and calculations, particularly the measurements and calculations used to estimate emissions from the vent for every annual report. This testing must be performed in the following year and reflected in the report for that year. Thus, if a fluorinated gas production facility found that a vent exceeded the threshold in 2014, the facility would be required to perform testing by February 28, 2016 to develop an emission factor to report the 2015 emissions from that vent.

Comment: Two commenters requested clarification that subpart L facilities would not be required to re-perform any assessments that were performed in previous years, such as the calculation of the relative standard deviation of the emission factors measured to develop a process-vent-specific emission factor, and the calculation of differences among the emission calculation factors for different operating scenarios implemented in previous years.

Response: Subpart L facilities are not required to recalculate either the relative standard deviation of the emission factors measured to develop a process-vent-specific emission factor, or the differences among the emission calculation factors for different operating scenarios implemented in previous years. However, in future calculations, they are required to use the GWPs in effect at the time of the calculation.

Comment: Two commenters requested confirmation that, for purposes of comparing the emission calculation factors for different operating scenarios of the same process, they should use the same GWPs in both factors.

Response: Under subpart L, facilities that plan a change to an operating scenario whose emission factor was measured must estimate and compare the emission calculation factors for the measured and changed scenarios. If the difference exceeds 15 percent, then the facility must re-test (40 CFR 98.124(c)(7)(ii)).

For purposes of these and similar calculations, facilities should use, for both the original and the updated parameters, the GWPs that are in the version of Table A–1 in effect at the time of the calculation. This will avoid

the introduction of differences that are caused by differences in GWPs rather than by changes to production processes.

C. Removal of the Mass-Balance Method From Subpart L

As proposed, we are removing the option to use a mass-balance method from the calculation and monitoring requirements of the rule. No facilities have used this method since RY 2011. We received no negative comments regarding the proposed removal. However, one commenter requested that the EPA include the mass-balance provisions in an appendix to Part 98 for future reference (*e.g.,* in amending past reports) rather than referencing the **Federal Register** document that included the 2010 Subpart L Rule. We are including the mass-balance provisions in an appendix to subpart L because we are requiring full reporting in 2015 of emissions that may have been measured using the mass balance method during the 2011 reporting year. With the removal of the mass-balance method, facilities will still be able to use the emission factor and emission calculation factor approaches to monitor, calculate, and report their fluorinated GHG emissions.

D. Clarification of the Subpart L Emission Factor Method

1. Summary of Clarification of the Emission Factor Method

The EPA is finalizing part of the proposed revision to the emission testing requirement at 40 CFR 98.124(c)(1). For process vents for which facilities performed scoping speciations, facilities will be required to include in the emissions test ''any fluorinated GHG that was identified in the initial scoping speciation'' rather than ''any fluorinated greenhouse gas that occurs in more than trace concentrations in the vent stream or, where a destruction device is used, in the inlet to the destruction device.'' For process vents for which facilities did not perform scoping speciations, facilities will continue to be required to include ''any fluorinated greenhouse gas that occurs in more than trace concentrations in the vent stream or, where a destruction device is used, in the inlet to the destruction device.'' As noted in the proposed rule, a primary purpose of the scoping speciation was to identify fluorinated GHGs to measure in subsequent emissions testing for the development of emission factors, and this change ensures that the scoping speciation serves that purpose. The set of fluorinated GHGs identified in the scoping speciation is expected to be broader than the set of fluorinated GHGs that occurs in more than trace concentrations in vent streams because the scoping speciation requires the identification of fluorinated GHGs that occur in more than trace concentration in any stream, including process streams as well as vent streams.

As noted in the proposed rule, this requirement will be applied to future testing, but not to past testing.

2. Changes Since the Proposed Rule

The proposed rule would also have required facilities to test for compounds that were ''otherwise known to occur in the vent stream.'' We are not finalizing this requirement after several commenters expressed concerns that it would require facilities to develop costly new protocols for fluorinated GHGs that are emitted at very low levels and that would fall below the detection limit in many cases. The commenters stated that the resulting testing would reveal ''little if any additional emissions information'' and would have only ''minor impact on the estimated total quantity of CO_2e emitted nationwide.'' To avoid the possibility of imposing large costs in order to quantify very small emissions of fluorinated GHGs, we are following the commenters' recommendations.

However, we plan to continue to evaluate the significance of and feasibility of measuring emissions of fluorinated GHGs that are known to occur in processes below trace concentrations. Based on our experience establishing stack testing requirements for another industry, fluorinated GHGs emitted from some types of facilities can be detected at concentrations below 20 parts per billion, approximately 50,000 times lower than 0.1 percent, the Part 98 definition of ''trace concentration.'' In addition, emissions of trace concentrations of fluorinated GHGs at flow rates typical of these types of facilities would be very high. Nevertheless, we are aware that the conditions under which fluorinated GHGs are emitted from fluorinated gas production facilities (*e.g.,* diluents and flow rates) may be significantly different from those of other facilities, indicating that more research is needed.

In addition to potentially expanding the set of fluorinated GHGs that must be tested for in processes for which facilities perform scoping speciations, the ''otherwise known to occur'' language would have covered situations in which a process vent exceeded the 10,000-mtCO_2e threshold for emission testing but did not exceed the one-metric-ton-of-fluorinated-GHGs threshold for the scoping speciation. This situation is expected to be rare, but could occur if the fluorinated GHGs emitted had very high GWPs (*i.e.,* over 10,000). To continue to cover this situation, we are retaining the requirement to test for ''any fluorinated greenhouse gas that occurs in more than trace concentrations in the vent stream or, where a destruction device is used, in the inlet to the destruction device'' for processes for which facilities did not perform scoping speciations.

III. Overview and Approach to Final CBI Determinations

A. Final Confidentiality Determinations for New, Revised, and Unchanged Data Elements

In this action, the EPA is finalizing both the confidentiality determinations that were included in the Proposed Amendments to Subpart L (for the new and substantially revised data elements) and many of the confidentiality determinations that were included in the 2012 Proposed Confidentiality Determinations (for the subpart L data elements that are not being removed or substantially revised). We received only supportive comments on the proposed confidentiality determinations for the new and substantially revised data elements, and are finalizing the confidentiality determinations as proposed for all 15 of those data elements. We received multiple comments on the January 10, 2012 proposed confidentiality determinations for a number of existing subpart L data elements, and we have addressed these comments through the revisions to the subpart L reporting requirements being finalized in today's action. For a list of these comments please see the comment response document in Docket number EPA–HQ–OAR–2009–0927. We are not finalizing determinations for reporting requirements associated with the use of Best Available Monitoring Methods (BAMM) under subpart L. Unlike the other data elements required to be reported under subpart L, BAMM data elements were reported only for reporting years 2011 and 2012 because the option to use BAMM expired in reporting year 2012 . In light of the above, we do not see a need to establish in this rulemaking the confidentiality status of the suite of BAMM data elements (approximately 60). In the event that we receive a request to release this information, depending on the nature and extent of the request, we will make such determinations either case-by-case or, if appropriate, by finalizing the CBI determinations in a separate rulemaking. Other than the

reporting requirements associated with BAMM, there are 14 existing subpart L data elements for which we received no comment on the proposed confidentiality determinations; we are finalizing the confidentiality determinations as proposed for 10 of these data elements. For the other four data elements, we have decided not to make a final confidentiality determination, as discussed below. We are also finalizing a confidentiality determination for a data element added since proposal.

To make the confidentiality determinations, the EPA used the same approach that we previously used for the 2011 final CBI rule (76 FR 30782, May 26, 2011). Specifically, for the 25 data elements (15 new and substantially revised data elements and 10 existing data elements), the confidentiality status of which we are finalizing today, the EPA had proposed to assign each of these data elements to one of 11 direct emitter data categories,[21] based on the type and characteristics of the data elements. For a description of each data category and the type and characteristics of data elements assigned to each category, see Sections II.C and II.D of the July 7, 2010 CBI proposal preamble (75 FR 39106–39130). Based on its evaluation of these 25 data elements, the EPA proposed to assign each data element to one of the following direct emitter data categories:

- Emissions.
- Calculation Methodology and Methodological Tier.
- Data Elements Reported for Periods of Missing Data that are Not Inputs to Emission Equations.
- Facility and Unit Identifier Information.
- Unit/Process ''Static'' Characteristics that are Not Inputs to Emission Equations.
- Unit/Process Operating Characteristics that are Not Inputs to Emission Equations.
- Test and Calibration Methods.

In the 2011 final CBI rule (76 FR 30782, May 26, 2011), the EPA made categorical determinations that all data elements assigned to the ''Emissions,'' ''Calculation Methodology and Methodological Tier,'' ''Facility and Unit Identifier Information,'' and ''Data Elements Reported for Periods of Missing Data that are Not Inputs to Emission Equations'' data categories meet the definition of ''emission data'' in 40 CFR 2.301(a)(2)(i) and, thus, are not entitled to confidential treatment. In addition, the EPA determined that all data elements assigned to the ''Test and Calibration Methods'' data category were not CBI. The EPA had proposed to assign 21 of the 25 data elements to one of the above-mentioned data categories and to apply to these data elements the categorical confidentiality determinations of their assigned categories. The EPA is therefore finalizing the category assignment and application of the categorical determinations as proposed for these 21 data elements. As shown in Table 4A of this preamble, 10 data elements are assigned to the ''Emissions'' data category, four data elements are assigned to the ''Calculation Methodology and Methodological Tier'' category, five data elements are assigned to the ''Data Elements Reported for Periods of Missing Data that are Not Inputs to Emission Equations'' data category, one data element is assigned to the ''Facility and Unit Identifier Information'' data category, and one data element to the ''Test and Calibration Methods'' category. Each of these 21 data elements is subject to the categorical confidentiality determination for the data category to which it is assigned.

TABLE 4A—DATA ELEMENTS ASSIGNED TO THE ''EMISSIONS,'' ''CALCULATION METHODOLOGY AND METHODOLOGICAL TIER,'' ''FACILITY AND UNIT IDENTIFIER INFORMATION,'' ''TEST AND CALIBRATION METHODS,'' AND ''DATA ELEMENTS REPORTED FOR PERIODS OF MISSING DATA THAT ARE NOT INPUTS TO EMISSION EQUATIONS'' DATA CATEGORIES

Citation	Data element
''Emissions'' Data Category (determined to be emission data)	
40 CFR 98.126(a)(3)	For facilities with more than one fluorinated gas product: for each generically-identified production or transformation process and each fluorinated GHG group, total GWP-weighted emissions of all fluorinated GHGs in that group emitted from the process, in metric tons CO_2e.
40 CFR 98.126(a)(4)(i)	For facilities with more than one fluorinated gas product: for each fluorinated GHG with emissions of 1,000 metric tons of CO_2e or more from production and transformation processes, summed across the facility as a whole, the total mass in metric tons of the fluorinated GHG emitted from production and transformation processes, summed across the facility as a whole.
40 CFR 98.126(a)(4)(ii)	For facilities with more than one fluorinated gas product: total GWP-weighted emissions of all other fluorinated GHGs from production and transformation processes by fluorinated GHG group for the facility as a whole, in metric tons of CO_2e.
40 CFR 98.126(a)(5)	For facilities that produce only one fluorinated gas product: aggregated total GWP-weighted emissions of fluorinated GHGs from production and transformation processes by fluorinated GHG group for the facility as a whole, in metric tons of CO_2e.
40 CFR 98.126(a)(5)	Where facilities produce only one fluorinated gas product but emissions from production and transformation processes consist of a major fluorinated GHG constituent of that fluorinated gas product, and the product is sold or transferred to another person: total mass in metric tons of each fluorinated GHG emitted from production and transformation processes that is a major fluorinated GHG constituent of the product.
40 CFR 98.126(c)(3)	For the emission factor and emission factor calculation method: for each process and each fluorinated GHG group, the total GWP-weighted mass of all fluorinated GHGs in that group emitted from all process vents combined, in metric tons of CO_2e.
40 CFR 98.126(c)(4)	For the emission factor and emission factor calculation method: for each process and each fluorinated GHG group, the total GWP-weighted mass of all fluorinated GHGs in that group emitted from equipment leaks, in metric tons of CO_2e.
40 CFR 98.126(e)	For each fluorinated gas production facility that destroys fluorinated GHGs, report the excess emissions that result from malfunctions of the destruction device.

[21] There are 11 data categories for direct emitter subparts. See 2011 final CBI rule (76 FR 30782, May 26, 2011). Subpart L is a direct emitter subpart.

TABLE 4A—DATA ELEMENTS ASSIGNED TO THE "EMISSIONS," "CALCULATION METHODOLOGY AND METHODOLOGICAL TIER," "FACILITY AND UNIT IDENTIFIER INFORMATION," "TEST AND CALIBRATION METHODS," AND "DATA ELEMENTS REPORTED FOR PERIODS OF MISSING DATA THAT ARE NOT INPUTS TO EMISSION EQUATIONS" DATA CATEGORIES—Continued

Citation	Data element
40 CFR 98.126(g)(2)	For each fluorinated gas production facility that destroys fluorinated GHGs, report the mass of each previously produced fluorinated GHG emitted from the destruction device (metric tons).
40 CFR 98.126(h)(1)	For each fluorinated gas production facility that vents residual fluorinated GHGs from containers, report, for each fluorinated GHG vented, the mass of the residual fluorinated GHG vented from containers annually (metric tons).
"Calculation Methodology and Methodological Tier" Data Category (determined to be emission data)	
40 CFR 98.126(a)(2)(iv)	For each generically identified fluorinated gas production and transformation process and each fluorinated GHG group at the facility: the methods used to determine the mass emissions of that fluorinated GHG group from that process from process vents.
40 CFR 98.126(a)(2)(v)	For each generically identified fluorinated gas production and transformation process and each fluorinated GHG group at the facility: the methods used to determine the mass emissions of that fluorinated GHG group from that process from equipment leaks, unless the mass balance method was used (for RYs 2011, 2012, 2013 and 2014 only).
40 CFR 98.126(b)(1)	For the mass-balance approach (for RYs 2011, 2012, 2013 and 2014 only): the overall absolute and relative errors calculated for the process under the former 40 CFR 98.123(b)(1), in tons and decimal fraction, respectively.
40 CFR 98.126(b)(2)	For the mass-balance approach (for RYs 2011, 2012, 2013 and 2014 only): the method used to estimate the total mass of fluorine in destroyed or recaptured streams (specify the former 40 CFR 98.123(b)(4) or (15)).
"Data Elements Reported for Periods of Missing Data That Are Not Inputs to Emission Equations" Data Category (determined to be emission data)	
40 CFR 98.126(d)(1)	Where missing data have been estimated pursuant to 40 CFR 98.125, the generically identified process for which the data were missing.
40 CFR 98.126(d)(2)	Where missing data have been estimated according to 40 CFR 98.125, the reason the data were missing.
40 CFR 98.126(d)(2)	Where missing data have been estimated according to 40 CFR 98.125, the length of time the data were missing.
40 CFR 98.126(d)(2)	Where missing data have been estimated according to 40 CFR 98.125, the method used to estimate the missing data.
40 CFR 98.126(d)(3)	Where missing data have been estimated according to 98.125, estimates of the missing data for all missing data associated with data elements required to be reported in this section.
"Facility and Unit Identifier Information" Data Category (determined to be emission data)	
40 CFR 98.126(a)(2)(i)	For each generically identified production and transformation process at the facility: a number, letter, or other identifier for the process. This identifier must be consistent from year to year.
"Test and Calibration Methods" Data Category (determined not to be CBI)	
40 CFR 98.126(f)(3)	For each fluorinated gas production facility that destroys fluorinated GHGs, the date of the most recent destruction device test.

In the Proposed Amendments to Subpart L, the EPA proposed to assign two new data elements to the "Unit/Process 'Static' Characteristics that are Not Inputs to Emission Equations" category and one new data element to the "Unit/Process Operating Characteristics that are Not Inputs to Emission Equations" category. In addition, the EPA had proposed to assign one existing data element to the "Unit/Process Operating Characteristics that are Not Inputs to Emission Equations" in the 2012 Proposed Confidentiality Determinations. In the 2011 final CBI rule, the EPA determined that the data elements in these categories are not "emission data" (as defined at 40 CFR 2.301(a)(2)(i)). However, instead of categorical determinations, the EPA made confidentiality determinations for individual data elements assigned to these categories. In proposing these determinations, the EPA considered the confidentiality criteria at 40 CFR 2.208, in particular whether release of the data is likely to cause substantial harm to the business's competitive position. See 40 CFR 2.208(e)(1). The EPA followed the same approach and proposed individual confidentiality determination for each of the four data elements assigned to these two data categories. The EPA received no comment on these proposed determinations and we are finalizing these determinations as proposed. Table 4B of this preamble identifies these four data elements along with their confidentiality determinations and the supporting rationales.

TABLE 4B—FINAL CONFIDENTIALITY DETERMINATIONS FOR NEW DATA ELEMENTS ASSIGNED TO THE "UNIT/PROCESS 'STATIC' CHARACTERISTICS THAT ARE NOT INPUTS TO EMISSION EQUATIONS" AND THE "UNIT/PROCESS OPERATING CHARACTERISTICS THAT ARE NOT INPUTS TO EMISSION EQUATIONS" DATA CATEGORIES

Citation	Data element	Confidentiality determination	Rationale for confidentiality determination
Unit/Process 'Static' Characteristics That Are Not Inputs to Emission Equations			
40 CFR 98.126(a)(2)(ii)	For each generically identified production and transformation process at the facility: indication of whether the process is a fluorinated gas production process, a fluorinated gas transformation process where no fluorinated GHG reactant is produced at another facility, or a fluorinated gas transformation process where one or more fluorinated GHG reactants are produced at another facility.	Not CBI	This data element would reveal only general information about the type of operation, which would not reveal any information about the production process (e.g., number of process steps, manufacturing efficiencies, novel productions methods) that would allow competitors to gain a competitive advantage.
40 CFR 98.126(a)(2)(iii)	For each generically-identified production and transformation process at the facility: Indication of whether the process could be characterized as reaction, distillation, or packaging (include all that apply).	Not CBI	This data element would reveal only a general description of the type of production process, which would not reveal any information about the process (e.g., number of process steps, manufacturing efficiencies, novel productions methods) that would allow competitors to gain a competitive advantage.
Unit/Process Operating Characteristics That Are Not Inputs to Emission Equations			
40 CFR 98.126(a)(6)	For each generically identified process, the range in Table L–2 that encompasses the effective DE, $DE_{effective}$, calculated for that process using Equation L–35, based on CO_2e.	Not CBI	This data element would place the effective DE for the process in a range. For any given level of emissions, this range would correspond to a range of masses vented to the destruction device that spanned a factor of four or more. Thus, even if competitors had a rough estimate of the quantity of the product produced (e.g., from sources other than the GHGRP), this information would not reveal any information about the process (e.g., manufacturing efficiencies) that would allow competitors to gain a competitive advantage.
40 CFR 98.126(f)(4)	For each fluorinated gas production facility that destroys fluorinated GHGs, the name of all applicable federal or state regulations that may apply to the destruction process.	Not CBI	This data element would not reveal any information about the process (e.g., manufacturing efficiencies) that would allow competitors to gain a competitive advantage.

The EPA has decided not to make a final determination for four existing data elements that remain unchanged in today's amendments:

- For each fluorinated gas production facility that destroys fluorinated GHGs, chemical identity of the F–GHG(s) used in the performance test conducted to determine DE, including surrogates (40 CFR 98.126(f)(2)).
- For each fluorinated gas production facility that destroys fluorinated GHGs, information on why the surrogate is sufficient to demonstrate the DE for each fluorinated GHG (40 CFR 98.126(f)(2)).
- For each fluorinated gas production facility that destroys fluorinated GHGs, submit a one-time report describing measurements, research, or analysis that relate to the formation of products of incomplete combustion that are fluorinated GHGs during the destruction of fluorinated gases, including methods and results (40 CFR 98.126(i)).
- The report must include the methods and results of any measurement or modeling studies, including the products of incomplete combustion for which the exhaust stream was analyzed, as well as copies of relevant scientific papers, if available, or citations of the papers, if they are not (40 CFR 98.126(i)).

In the 2012 Proposed CBI Determinations, the EPA proposed that these four data elements are non-CBI. Although the EPA did not receive specific comments on these four proposed determinations, the EPA received comments that raised concerns regarding the disclosure of the contents of process streams including information that could be revealed with the disclosure of these four data elements. The EPA concluded that the nature of the information submitted under these data elements could vary significantly among reporters and may include information related to the contents of process streams. For example, some reporters may submit information related to the contents of process streams as part of their demonstration of why the surrogate compound is sufficient to demonstrate the DE for each fluorinated GHG. However, the EPA anticipates that other facilities may submit information unrelated to the contents of process streams. In light of the above, the EPA

is not making final confidentiality determinations for these data elements. Any confidentiality status of these data elements will be evaluated on a case-by-case basis, in accordance with the existing CBI regulations in 40 CFR part 2, subpart B.

We are finalizing a confidentiality determination for the data reporting element that was added to 40 CFR 98.3(c)(4)(iii)(E) since proposal; as a result we did not propose a confidentiality determination for this data element. This data element specifies that if a fluorinated GHG does not have a chemical-specific GWP in Table A–1, then reporters must ''report the fluorinated GHG group of which that fluorinated GHG is a member'' This data reporting element clearly fits into the ''Calculation Methodology and Methodological Tier'' Data Category'' as it allows the EPA to determine whether the correct method was used, or specifically, whether an appropriate GWP was applied. Therefore, we are assigning it to this data category and applying the categorical determination for this category, which is emission data.

Lastly, we note that we have already established in a previous rulemaking the confidentiality status of the data element in 40 CFR 98.126(d) that is included in today's final rule. As explained in Section II.B.2.b of this preamble, this data element is among the data already required to be reported under subpart A, 40 CFR 98.3(c)(8), but that we are now requiring its reporting explicitly under subpart L 40 CFR 98.126(d) for clarity. (This data element is the generically identified process for which data were missing, discussed in Section II.B.2.b of this preamble.) In 76 FR 30782, we determined that the data to be reported under 40 CFR 98.3(c)(8), including the data required under the new 40 CFR 98.126(d), are emission data, and therefore are not entitled to confidential treatment. Therefore, no separate confidentiality determination is necessary due to the addition of 40 CFR 98.126(d).

B. Public Comments on the Proposed Confidentiality Determinations and Responses to Public Comment

The EPA is finalizing all confidentiality determinations for the new and substantially revised data elements as they were proposed. Please refer to the preamble for the Proposed Amendments to Subpart L for additional information regarding the proposed confidentiality determinations. Two commenters noted that the proposed CBI determinations were acceptable, given other changes to the rule and the transition to reporting by F–GHG groups. For comments and responses regarding confidentiality determinations for new and revised data elements, please refer to the comment response document in Docket ID. No. EPA–HQ–OAR–2009–0927.

The EPA is also finalizing proposed confidentiality determinations for 10 existing data elements. Please see the preamble for the 2012 Proposed Confidentiality Determinations for additional information regarding the proposed confidentiality determinations. We did not receive any comments on these determinations.

IV. Impacts of the Final Rule

The EPA has determined that the cost associated with this final action will be $792 in the first year of implementation and $0 in each subsequent year, as further summarized below. These costs are related to the implementation of the alternative verification approach addressing the inputs to emission equations for which disclosure concerns were identified. A full discussion of these impacts may be found in the memorandum ''Assessment of Cost Impacts of 2015 Inputs Proposal—Revisions to Reporting, Recordkeeping, and Verification Requirements Under the Greenhouse Gas Reporting Program,'' August 2013, available in the EPA's docket number EPA–HQ–OAR–2010–0929. The EPA has determined that the other amendments to subpart L and subpart A being finalized in this action will not result in an increase in costs. A full discussion of the impacts of the other amendments may be found in the ''2013 Amendments to the Greenhouse Gas Reporting Rule for the Fluorinated Gas Production Source Category Cost Memo'' in docket number EPA–HQ–OAR–2009–0927.

A. How were the costs of this final rule estimated?

1. Inputs Verification Tool

The data elements required to be used for calculating the annual GHG emissions values, and the cost associated with collecting these data elements, have not changed from the estimate made during the original rulemaking process. The time associated with entry of these inputs to emission equations into e-GGRT (including into the new IVT) is expected to be equivalent to the time originally anticipated for data entry. Prior to using IVT, as currently required, reporters must use their own calculation tool (*e.g.,* calculator, calculation software) to calculate the annual GHG emissions values, using the same sets of equations and entering the same data elements that they would enter into the tool.

The EPA does recognize, however, that there may be some time associated with learning the new procedures for IVT and we have estimated a cost of approximately $66 per facility, or $792 for the first year for all 12 subpart L facilities that do not also report under subpart O. (The burden and costs for the four facilities that report under both subpart O and subpart L are already accounted for in the Final Inputs Rule.) During their first session using IVT, reporters would need to spend approximately one hour to become familiar with how the tool operates within e-GGRT. The requirement to use IVT would not result in any change in the respondent activity of entering these data into e-GGRT. Once the reporter has become familiar with the tool, the EPA does not anticipate any additional burden. The cost includes technical, clerical, and managerial labor hours. For further information about this cost estimate, refer to the memorandum ''Assessment of Cost Impacts of 2015 Inputs Final Rule—Revisions to Reporting, Recordkeeping, and Verification Requirements Under the Greenhouse Gas Reporting Program'' (September 2014) and the supporting statement for the information collection request, ''Supporting Statement, Environmental Protection Agency: Revisions to Reporting and Recordkeeping Requirements, and Final Confidentiality Determinations Under the Greenhouse Gas Reporting Program, Office of Management and Budget (OMB) Control Number 2060–0629, ICR Number 2300.12,'' both available in Docket ID No. EPA–HQ–OAR–2010–0929.

B. Do the final confidentiality determinations change the impacts of the final amendments?

The final confidentiality determinations for the new data elements would not affect whether and how data are reported and, therefore, would not impose any additional burden on sources. Whether a data reporting element is determined to be CBI, not CBI, or emission data, the reporting element is reported to the EPA through e-GGRT in the same manner.

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'' under the terms of

Executive Order 12866 (58 FR 51735, October 4, 1993) and is therefore not subject to review under Executive Orders 12866 and 13563 (76 FR 3821, January 21, 2011). This action (1) amends certain provisions of the Fluorinated Gas Production source category, including finalizing an alternative verification approach for this source category in lieu of collecting certain data elements for which the EPA has identified disclosure concerns and for which the reporting deadline was deferred until March 31, 2015, (2) adds chemical-specific and default GWPs for a number of fluorinated greenhouse gases and fluorinated heat transfer fluids to the general provisions of the Greenhouse Gas Reporting Rule, and (3) finalizes confidentiality determinations for certain reporting requirements of the Fluorinated Gas Production source category.

B. Paperwork Reduction Act

The Office of Management and Budget (OMB) has approved the information collection requirements for 40 CFR part 98 under the provisions of the *Paperwork Reduction Act,* 44 U.S.C. 3501 *et seq.,* and has assigned OMB control numbers 2060–0629 and 2060–0650, respectively, and ICR 2300.10. The OMB control numbers for the EPA's regulations in 40 CFR are listed in 40 CFR part 9. The revisions in this final action result in a small increase in burden, and the ICR will be modified to reflect this burden change. Further information on the EPA's assessment on the impact on burden can be found in the analyses ''Assessment of Cost Impacts of 2015 Inputs Proposal—Revisions to Reporting, Recordkeeping, and Verification Requirements Under the Greenhouse Gas Reporting Program,'' August 2013, available in the EPA's Docket ID No. EPA–HQ–OAR–2010–0929, in the ''2013 Amendments to the Greenhouse Gas Reporting Rule for the Fluorinated Gas Production Source Category Cost Memo'' and ''Economic Analysis of Adding Chemical-Specific and Default GWPs to Table A–1'', both in docket number EPA–HQ–OAR–2009–0927.

This action (1) amends certain provisions of the Fluorinated Gas Production source category, including finalizing an alternative verification approach for this source category in lieu of collecting certain data elements for which the EPA has identified disclosure concerns and for which the reporting deadline was deferred until March 31, 2015, (2) adds chemical-specific and default GWPs for a number of fluorinated greenhouse gases and fluorinated heat transfer fluids to the general provisions of the Greenhouse Gas Reporting Rule, and (3) finalizes confidentiality determinations for certain reporting requirements of the Fluorinated Gas Production source category.

C. Regulatory Flexibility Act (RFA)

The RFA generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

For purposes of assessing the impact of this final rule on small entities, small entity is defined as: (1) A small business as defined by the Small Business Administration's regulations at 13 CFR 121.201; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise that is independently owned and operated and is not dominant in its field.

After considering the economic impacts of today's final rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. The addition of chemical-specific and default GWPs to subpart A is not expected to affect the applicability of the rule to small entities. The amendments to subpart L (including the requirement to enter inputs to subpart L emission equations into IVT) affect fluorinated gas producers, none of which are small entities.

Although this final rule will not have a significant economic impact on a substantial number of small entities, the EPA nonetheless has tried to reduce the impact of Part 98 on small entities. For example, the EPA conducted several meetings with industry associations to discuss regulatory options and the corresponding burden on industry, such as recordkeeping and reporting. The EPA continues to conduct significant outreach on Part 98 and maintains an ''open door'' policy for stakeholders to help inform the EPA's understanding of key issues for the industries.

D. Unfunded Mandates Reform Act (UMRA)

The final rule amendments and confidentiality determinations do not contain a federal mandate that may result in expenditures of $100 million or more for state, local, and tribal governments, in the aggregate, or the private sector in any one year. Thus, the final rule amendments and confidentiality determinations are not subject to the requirements of Sections 202 and 205 of the UMRA.

This final rule is also not subject to the requirements of Section 203 of UMRA because it contains no regulatory requirements that might significantly or uniquely affect small governments. Facilities and suppliers subject to the rule include fluorinated gas producers, electronics manufacturers, magnesium producers and processors, manufacturers and users of electrical equipment, importers and exporters of fluorinated GHGs in bulk, and importers and exporters of pre-charged equipment and closed-cell foams that contain fluorinated GHGs. None of the facilities currently known to undertake these activities is owned by a small government. Therefore, this action is not subject to the requirements of Section 203 of the UMRA.

E. Executive Order 13132: Federalism

This action does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. For a more detailed discussion about how Part 98 relates to existing state programs, please see Section II of the preamble to the final Greenhouse Gas reporting rule (74 FR 56266, October 30, 2009).

The final amendments and confidentiality determinations apply directly to fluorinated gas producers, electronics manufacturers, magnesium producers and processors, manufacturers and users of electrical equipment, importers and exporters of fluorinated GHGs in bulk, and importers and exporters of pre-charged equipment and closed-cell foams that contain fluorinated GHGs. They do not apply to governmental entities unless the government entity owns a facility that falls into one of these categories and that emits or supplies fluorinated GHGs above threshold levels. We are not aware of any governmental entities that would be affected. This regulation also does not limit the power of states or localities to collect GHG data and/or regulate GHG emissions. Thus, Executive Order 13132 does not apply to this action.

Although Section 6 of Executive Order 13132 does not apply to this

action, the EPA did consult with state and local officials or representatives of state and local governments in developing subpart L, promulgated on December 1, 2010. A summary of the EPA's consultations with state and local governments is provided in Section VIII.E of the preamble to the 2009 final rule.

In the spirit of Executive Order 13132, and consistent with EPA policy to promote communications between the EPA and state and local governments, the EPA specifically solicited comment on the proposed action from state and local officials. We received no comments from state and local officials on the proposed rule.

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

This action does not have tribal implications, as specified in Executive Order 13175 (65 FR 67249, November 9, 2000). The final amendments and confidentiality determinations apply to fluorinated gas producers, electronics manufacturers, magnesium producers and processors, manufacturers and users of electrical equipment, importers and exporters of fluorinated GHGs in bulk, and importers and exporters of pre-charged equipment and closed-cell foams that contain fluorinated GHGs. They will not have tribal implications unless the tribal entity owns a facility that falls into one of these categories and that emits or supplies fluorinated GHGs above threshold levels. We are not aware of any tribal facilities that will be affected. Thus, Executive Order 13175 does not apply to this action.

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

The EPA interprets Executive Order 13045 (62 FR 19885, April 23, 1997) as applying only to those regulatory actions that concern health or safety risks, such that the analysis required under Section 5–501 of the Executive Order has the potential to influence the regulation. This action is not subject to Executive Order 13045 because it does not establish an environmental standard intended to mitigate health or safety risks.

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

This action is not subject to Executive Order 13211 (66 FR 28355, May 22, 2001), because it is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113 (15 U.S.C. 272 note), directs the EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.,* materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. NTTAA directs the EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

This final rule does not involve any new technical standards. Therefore, the EPA did not consider the use of specific voluntary consensus standards.

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

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

The EPA has determined that this final rule will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations. It does not affect the level of protection provided to human health or the environment because it is a rule addressing information collection and reporting procedures.

K. Congressional Review Act

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. The EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2). This rule will be effective on January 1, 2015.

List of Subjects 40 CFR Part 98

Environmental protection, Administrative practice and procedure, Greenhouse gases, Reporting and recordkeeping requirements.

Dated: November 25, 2014.

Gina McCarthy,

Administrator.

For the reasons stated in the preamble, part 98 of title 40, chapter I, of the Code of Federal Regulations is amended as follows:

PART 98—MANDATORY GREENHOUSE GAS REPORTING

■ 1. The authority citation for part 98 continues to read as follows:

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

Subpart A—General Provisions

■ 2. Section 98.2 is amended by revising paragraphs (b)(1) and (4) and (f)(1) to read as follows:

§ 98.2 Who must report?

* * * * *

(b) * * *

(1) Calculate the annual emissions of CO_2, CH_4, N_2O, and each fluorinated GHG in metric tons from all applicable source categories listed in paragraph (a)(2) of this section. The GHG emissions shall be calculated using the calculation methodologies specified in each applicable subpart and available company records.

* * * * *

(4) Sum the emissions estimates from paragraphs (b)(1), (b)(2), and (b)(3) of this section for each GHG and calculate metric tons of CO_2e using Equation A–1 of this section.

$$CO_2e = \sum_{i=1}^{n} GHG_i \times GWP_i \qquad \text{(Eq. A-1)}$$

Where:

CO_2e = Carbon dioxide equivalent, metric tons/year.

GHG_i = Mass emissions of each greenhouse gas, metric tons/year.

GWP_i = Global warming potential for each greenhouse gas from Table A–1 of this subpart.

n = The number of greenhouse gases emitted.

* * * * *

(f) * * *

(1) Calculate the mass in metric tons per year of CO_2, N_2O, and each fluorinated GHG that is imported and the mass in metric tons per year of CO_2, N_2O, and each fluorinated GHG that is exported during the year.

* * * * *

■ 3. Section 98.3 is amended by:

■ a. Revising paragraphs (c)(4)(iii)(E) and (F) and (c)(5)(i) and (ii);

■ b. Removing and reserving paragraph (c)(4)(vi);

■ c. Revising paragraph (k);

■ d. Revising paragraphs (l) introductory text, (1)(1), and (1)(2) introductory text;

■ e. Revising paragraphs (l)(2)(i), (l)(2)(ii)(C) through (E), and (l)(2)(iii).

The revisions read as follows:

§ 98.3 What are the general monitoring, reporting, recordkeeping, and verification requirements of this part?

* * * * *

(c) * * *

(4) * * *

(iii) * * *

(E) Each fluorinated GHG (as defined in § 98.6), except fluorinated gas production facilities must comply with § 98.126(a) rather than this paragraph (c)(4)(iii)(E). If a fluorinated GHG does not have a chemical-specific GWP in Table A–1 of this subpart, identify and report the fluorinated GHG group of which that fluorinated GHG is a member.

(F) For electronics manufacturing (as defined in § 98.90), each fluorinated heat transfer fluid (as defined in § 98.98) that is not also a fluorinated GHG as specified under (c)(4)(iii)(E) of this section. If a fluorinated heat transfer fluid does not have a chemical-specific GWP in Table A–1 of this subpart, identify and report the fluorinated GHG group of which that fluorinated heat transfer fluid is a member.

* * * * *

(5) * * *

(i) Total quantity of GHG aggregated for all GHG from all applicable supply categories in Table A–5 of this subpart and expressed in metric tons of CO_2e calculated using Equation A–1 of this subpart.

(ii) Quantity of each GHG from each applicable supply category in Table A–5 to this subpart, expressed in metric tons of each GHG.

* * * * *

(k) *Revised global warming potentials and special provisions for reporting year 2013 and subsequent reporting years.* This paragraph (k) applies to owners or operators of facilities or suppliers that first become subject to any subpart of part 98 solely due to an amendment to Table A–1 of this subpart.

(1) A facility or supplier that first becomes subject to part 98 due to a change in the GWP for one or more compounds in Table A–1 of this subpart, Global Warming Potentials, is not required to submit an annual GHG report for the reporting year during which the change in GWPs is published.

(2) A facility or supplier that was already subject to one or more subparts of part 98 but becomes subject to one or more additional subparts due to a change in the GWP for one or more compounds in Table A–1 of this subpart, is not required to include those subparts to which the facility is subject only due to the change in the GWP in the annual GHG report submitted for the reporting year during which the change in GWPs is published.

(3) Starting on January 1 of the year after the year during which the change in GWPs is published, facilities or suppliers identified in paragraphs (k)(1) or (2) of this section must start monitoring and collecting GHG data in compliance with the applicable subparts of part 98 to which the facility is subject due to the change in the GWP for the annual greenhouse gas report for that reporting year, which is due by March 31 of the following calendar year.

(4) A change in the GWP for one or more compounds includes the addition to Table A–1 of this subpart of either a chemical-specific or a default GWP that applies to a compound to which no chemical-specific GWP in Table A–1 of this subpart previously applied.

(l) *Special provision for best available monitoring methods in 2014 and subsequent years.* This paragraph (l) applies to owners or operators of facilities or suppliers that first become subject to any subpart of part 98 due to an amendment to Table A–1 of this subpart, Global Warming Potentials.

(1) *Best available monitoring methods.* From January 1 to March 31 of the year after the year during which the change in GWPs is published, owners or operators subject to this paragraph (l) may use best available monitoring methods for any parameter (*e.g.,* fuel use, feedstock rates) that cannot reasonably be measured according to the monitoring and QA/QC requirements of a relevant subpart. The owner or operator must use the calculation methodologies and equations in the ''Calculating GHG Emissions'' sections of each relevant subpart, but may use the best available monitoring method for any parameter for which it is not reasonably feasible to acquire, install, and operate a required piece of monitoring equipment by January 1 of the year after the year during which the change in GWPs is published. Starting no later than April 1 of the year after the year during which the change in GWPs is published, the owner or operator must discontinue using best available methods and begin following all applicable monitoring and QA/QC requirements of this part, except as provided in paragraph (l)(2) of this section. Best available monitoring methods means any of the following methods:

* * * * *

(2) *Requests for extension of the use of best available monitoring methods.* The owner or operator may submit a request to the Administrator to use one or more best available monitoring methods beyond March 31 of the year after the year during which the change in GWPs is published.

(i) *Timing of request.* The extension request must be submitted to EPA no later than January 31 of the year after the year during which the change in GWPs is published.

(ii) * * *

(C) A description of the reasons that the needed equipment could not be obtained and installed before April 1 of the year after the year during which the change in GWPs is published.

(D) If the reason for the extension is that the equipment cannot be purchased and delivered by April 1 of the year after the year during which the change in GWPs is published, include supporting documentation such as the date the monitoring equipment was ordered, investigation of alternative suppliers and the dates by which alternative vendors promised delivery, backorder notices or unexpected delays,

descriptions of actions taken to expedite delivery, and the current expected date of delivery.

(E) If the reason for the extension is that the equipment cannot be installed without a process unit shutdown, include supporting documentation demonstrating that it is not practicable to isolate the equipment and install the monitoring instrument without a full process unit shutdown. Include the date of the most recent process unit shutdown, the frequency of shutdowns for this process unit, and the date of the next planned shutdown during which the monitoring equipment can be installed. If there has been a shutdown or if there is a planned process unit shutdown between November 29 of the year during which the change in GWPs is published and April 1 of the year after the year during which the change in GWPs is published, include a justification of why the equipment could not be obtained and installed during that shutdown.

* * * * *

(iii) *Approval criteria.* To obtain approval, the owner or operator must demonstrate to the Administrator's satisfaction that it is not reasonably feasible to acquire, install, and operate a required piece of monitoring equipment by April 1 of the year after the year during which the change in GWPs is published. The use of best available methods under this paragraph (l) will not be approved beyond December 31 of the year after the year during which the change in GWPs is published.

■ 4. Section 98.5 is amended by revising paragraph (b) to read as follows:

§ 98.5 How is the report submitted?

* * * * *

(b) For reporting year 2014 and thereafter, unless a later year is specified in the applicable recordkeeping section, you must enter into verification software specified by the Administrator the data specified in the verification software records provision in each applicable recordkeeping section. For each data element entered into the verification software, if the software produces a warning message for the data value and you elect not to revise the data value, you may provide an explanation in the verification software of why the data value is not being revised.

■ 5. Section 98.6 is amended by:

■ a. Adding, in alphabetical order, the definition for Carbonofluoridates;

■ b. Adding, in alphabetical order, the definition for Fluorinated acetates;

■ c. Adding, in alphabetical order, the definition for Fluorinated alcohols other than fluorotelomer alcohols;

■ d. Adding, in alphabetical order, the definition for Fluorinated formates;

■ e. Adding, in alphabetical order, the definition for Fluorinated GHG group;

■ f. Adding, in alphabetical order, the definition for Fluorotelomer alcohols;

■ g. Adding, in alphabetical order, the definition for Fully fluorinated GHGs;

■ h. Revising the definition for Global warming potential;

■ i. Adding, in alphabetical order, the definition for Other fluorinated GHGs;

■ j. Adding, in alphabetical order, the definition for Saturated hydrochlorofluoroethers (HCFEs);

■ k. Adding, in alphabetical order, the definition for Saturated hydrofluorocarbons (HFCs);

■ l. Adding, in alphabetical order, the definition for Saturated hydrofluoroethers (HFEs);

■ m. Adding, in alphabetical order, the definition for Unsaturated halogenated ethers.

■ n. Adding, in alphabetical order, the definition for Unsaturated hydrochlorofluorocarbons (HCFCs);

■ o. Adding, in alphabetical order, the definition for Unsaturated hydrofluorocarbons (HFCs); and

■ p. Adding, in alphabetical order, the definition for Unsaturated perfluorocarbons (PFCs).

The revisions and additions read as follows:

§ 98.6 Definitions.

* * * * *

Carbonofluoridates means fluorinated GHGs that are composed of a -OCF(O) group (carbonyl group with a single-bonded oxygen atom and a fluorine atom) that is linked on the single-bonded oxygen to another hydrocarbon group in which one or more of the hydrogen atoms may be replaced by fluorine atoms.

* * * * *

Fluorinated acetates means fluorinated GHGs that are composed of an acetate group with one or more valence locations on the methyl group of the acetate occupied by fluorine atoms (*e.g.,* $CFH_2C(O)O$-, $CF_2HC(O)O$-) and, linked to the single-bonded oxygen of the acetate group, another hydrocarbon group in which one or more of the hydrogen atoms may be replaced by fluorine atoms.

Fluorinated alcohols other than fluorotelomer alcohols means fluorinated GHGs that include an alcohol functional group (-OH) and that do not meet the definition of fluorotelomer alcohols.

Fluorinated formates means fluorinated GHGs that are composed of a formate group -OCH(O) (carbonyl group with a single-bonded oxygen, and with a hydrogen atom) that is linked on the single-bonded oxygen atom to a hydrocarbon group in which one or more of the hydrogen atoms in the hydrocarbon group is replaced by fluorine atoms; the typical formula for fluorinated formates is $F_nROCH(O)$.

* * * * *

Fluorinated greenhouse gas (GHG) group means one of the following sets of fluorinated GHGs: Fully fluorinated GHGs; saturated hydrofluorocarbons with 2 or fewer carbon-hydrogen bonds; saturated hydrofluorocarbons with 3 or more carbon-hydrogen bonds; saturated hydrofluoroethers and hydrochlorofluoroethers with 1 carbon-hydrogen bond; saturated hydrofluoroethers and hydrochlorofluoroethers with 2 carbon-hydrogen bonds; saturated hydrofluoroethers and hydrochlorofluoroethers with 3 or more carbon-hydrogen bonds; fluorinated formates; fluorinated acetates, carbonofluoridates, and fluorinated alcohols other than fluorotelomer alcohols; unsaturated PFCs, unsaturated HFCs, unsaturated HCFCs, unsaturated halogenated ethers, unsaturated halogenated esters, fluorinated aldehydes, and fluorinated ketones; fluorotelomer alcohols; fluorinated GHGs with carbon-iodine bonds; or other fluorinated GHGs.

Fluorotelomer alcohols means fluorinated GHGs with the chemical formula $C_nF_{2n+1}CH_2CH_2OH$.

* * * * *

Fully fluorinated GHGs means fluorinated GHGs that contain only single bonds and in which all available valence locations are filled by fluorine atoms. This includes but is not limited to: Saturated perfluorocarbons; SF_6; NF_3; SF_5CF_3; fully fluorinated linear, branched, and cyclic alkanes; fully fluorinated ethers; fully fluorinated tertiary amines; fully fluorinated aminoethers; and perfluoropolyethers.

* * * * *

Global warming potential or GWP means the ratio of the time-integrated radiative forcing from the instantaneous release of one kilogram of a trace substance relative to that of one kilogram of a reference gas (*i.e.,* CO_2). GWPs for each greenhouse gas are provided in Table A–1 of this subpart. For purposes of the calculations in this part, if the GHG has a chemical-specific GWP listed in Table A–1, use that GWP. Otherwise, use the default GWP provided in Table A–1 for the

fluorinated GHG group of which the GHG is a member.

* * * * *

Other fluorinated GHGs means fluorinated GHGs that are none of the following: Fully fluorinated GHGs; saturated hydrofluorocarbons with 2 or fewer carbon-hydrogen bonds; saturated hydrofluorocarbons with 3 or more carbon-hydrogen bonds; saturated hydrofluoroethers and hydrochlorofluoroethers with 1 carbon-hydrogen bond; saturated hydrofluoroethers and hydrochlorofluoroethers with 2 carbon-hydrogen bonds; saturated hydrofluoroethers and hydrochlorofluoroethers with 3 or more carbon-hydrogen bonds; fluorinated formates; fluorinated acetates, carbonofluoridates, and fluorinated alcohols other than fluorotelomer alcohols; unsaturated PFCs, unsaturated HFCs, unsaturated HCFCs, unsaturated halogenated ethers, unsaturated halogenated esters, fluorinated aldehydes, and fluorinated ketones; fluorotelomer alcohols; or fluorinated GHGs with carbon-iodine bonds.

* * * * *

Saturated hydrochlorofluoroethers (HCFEs) means fluorinated GHGs in which two hydrocarbon groups are linked by an oxygen atom; in which two or more, but not all, of the hydrogen atoms in the hydrocarbon groups have been replaced by fluorine atoms and chlorine atoms; and which contain only single bonds.

Saturated hydrofluorocarbons (HFCs) means fluorinated GHGs that are hydrofluorocarbons and that contain only single bonds.

Saturated hydrofluoroethers (HFEs) means fluorinated GHGs in which two hydrocarbon groups are linked by an oxygen atom; in which one or more, but not all, of the hydrogen atoms in the hydrocarbon groups have been replaced by fluorine atoms; and which contain only single bonds.

* * * * *

Unsaturated halogenated ethers means fluorinated GHGs in which two hydrocarbon groups are linked by an oxygen atom; in which one or more of the hydrogen atoms in the hydrocarbon groups have been replaced by fluorine atoms; and which contain one or more bonds that are not single bonds. Unsaturated ethers include unsaturated HFEs.

Unsaturated hydrochlorofluorocarbons (HCFCs) means fluorinated GHGs that contain only carbon, chlorine, fluorine, and hydrogen and that contain one or more bonds that are not single bonds.

Unsaturated hydrofluorocarbons (HFCs) means fluorinated GHGs that are hydrofluorocarbons and that contain one or more bonds that are not single bonds.

Unsaturated perfluorocarbons (PFCs) means fluorinated GHGs that are perfluorocarbons and that contain one or more bonds that are not single bonds.

* * * * *

■ 6. Table A–1 to Subpart A is revised to read as follows:

TABLE A–1 TO SUBPART A OF PART 98—GLOBAL WARMING POTENTIALS

[100-Year Time Horizon]

Name	CAS No.	Chemical formula	Global warming potential (100 yr.)
Chemical-Specific GWPs			
Carbon dioxide	124–38–9	CO_2	1
Methane	74–82–8	CH_4	[a] 25
Nitrous oxide	10024–97–2	N_2O	[a] 298
Fully Fluorinated GHGs			
Sulfur hexafluoride	2551–62–4	SF_6	[a] 22,800
Trifluoromethyl sulphur pentafluoride	373–80–8	SF_5CF_3	17,700
Nitrogen trifluoride	7783–54–2	NF_3	17,200
PFC–14 (Perfluoromethane)	75–73–0	CF_4	[a] 7,390
PFC–116 (Perfluoroethane)	76–16–4	C_2F_6	[a] 12,200
PFC–218 (Perfluoropropane)	76–19–7	C_3F_8	[a] 8,830
Perfluorocyclopropane	931–91–9	$C–C_3F_6$	17,340
PFC–3–1–10 (Perfluorobutane)	355–25–9	C_4F_{10}	[a] 8,860
PFC–318 (Perfluorocyclobutane)	115–25–3	$C–C_4F_8$	[a] 10,300
PFC–4–1–12 (Perfluoropentane)	678–26–2	C_5F_{12}	[a] 9,160
PFC–5–1–14 (Perfluorohexane, FC–72)	355–42–0	C_6F_{14}	[a] 9,300
PFC–6–1–12	335–57–9	C_7F_{16}; $CF_3(CF_2)_5CF_3$	[b] 7,820
PFC–7–1–18	307–34–6	C_8F_{18}; $CF_3(CF_2)_6CF_3$	[b] 7,620
PFC–9–1–18	306–94–5	$C_{10}F_{18}$	7,500
PFPMIE (HT–70)	NA	$CF_3OCF(CF_3)CF_2OCF_2OCF_3$	10,300
Perfluorodecalin (cis)	60433–11–6	$Z–C_{10}F_{18}$	[b] 7,236
Perfluorodecalin (trans)	60433–12–7	$E–C_{10}F_{18}$	[b] 6,288
Saturated Hydrofluorocarbons (HFCs) With Two or Fewer Carbon-Hydrogen Bonds			
HFC–23	75–46–7	CHF_3	[a] 14,800
HFC–32	75–10–5	CH_2F_2	[a] 675
HFC–125	354–33–6	C_2HF_5	[a] 3,500
HFC–134	359–35–3	$C_2H_2F_4$	[a] 1,100
HFC–134a	811–97–2	CH_2FCF_3	[a] 1,430
HFC–227ca	2252–84–8	$CF_3CF_2CHF_2$	[b] 2640
HFC–227ea	431–89–0	C_3HF_7	[a] 3,220
HFC–236cb	677–56–5	$CH_2FCF_2CF_3$	1,340
HFC–236ea	431–63–0	CHF_2CHFCF_3	1,370

TABLE A–1 TO SUBPART A OF PART 98—GLOBAL WARMING POTENTIALS—Continued

[100-Year Time Horizon]

Name	CAS No.	Chemical formula	Global warming potential (100 yr.)
HFC–236fa	690–39–1	$C_3H_2F_6$	[a] 9,810
HFC–329p	375–17–7	$CHF_2CF_2CF_2CF_3$	[b] 2360
HFC–43–10mee	138495–42–8	$CF_3CFHCFHCF_2CF_3$	[a] 1,640
Saturated Hydrofluorocarbons (HFCs) With Three or More Carbon-Hydrogen Bonds			
HFC–41	593–53–3	CH_3F	[a] 92
HFC–143	430–66–0	$C_2H_3F_3$	[a] 353
HFC–143a	420–46–2	$C_2H_3F_3$	[a] 4,470
HFC–152	624–72–6	CH_2FCH_2F	53
HFC–152a	75–37–6	CH_3CHF_2	[a] 124
HFC–161	353–36–6	CH_3CH_2F	12
HFC–245ca	679–86–7	$C_3H_3F_5$	[a] 693
HFC–245cb	1814–88–6	$CF_3CF_2CH_3$	[b] 4620
HFC–245ea	24270–66–4	$CHF_2CHFCHF_2$	[b] 235
HFC–245eb	431–31–2	$CH_2FCHFCF_3$	[b] 290
HFC–245fa	460–73–1	$CHF_2CH_2CF_3$	1,030
HFC–263fb	421–07–8	$CH_3CH_2CF_3$	[b] 76
HFC–272ca	420–45–1	$CH_3CF_2CH_3$	[b] 144
HFC–365mfc	406–58–6	$CH_3CF_2CH_2CF_3$	794
Saturated Hydrofluoroethers (HFEs) and Hydrochlorofluoroethers (HCFEs) With One Carbon-Hydrogen Bond			
HFE–125	3822–68–2	CHF_2OCF_3	14,900
HFE–227ea	2356–62–9	$CF_3CHFOCF_3$	1,540
HFE–329mcc2	134769–21–4	$CF_3CF_2OCF_2CHF_2$	919
HFE–329me3	428454–68–6	$CF_3CFHCF_2OCF_3$	[b] 4,550
1,1,1,2,2,3,3-Heptafluoro-3-(1,2,2,2-tetrafluoroethoxy)-propane	3330–15–2	$CF_3CF_2CF_2OCHFCF_3$	[b] 6,490
Saturated HFEs and HCFEs With Two Carbon-Hydrogen Bonds			
HFE–134 (HG–00)	1691–17–4	CHF_2OCHF_2	6,320
HFE–236ca	32778–11–3	$CHF_2OCF_2CHF_2$	[b] 4,240
HFE–236ca12 (HG–10)	78522–47–1	$CHF_2OCF_2OCHF_2$	2,800
HFE–236ea2 (Desflurane)	57041–67–5	$CHF_2OCHFCF_3$	989
HFE–236fa	20193–67–3	$CF_3CH_2OCF_3$	487
HFE–338mcf2	156053–88–2	$CF_3CF_2OCH_2CF_3$	552
HFE–338mmz1	26103–08–2	$CHF_2OCH(CF_3)_2$	380
HFE–338pcc13 (HG–01)	188690–78–0	$CHF_2OCF_2CF_2OCHF_2$	1,500
HFE–43–10pccc (H-Galden 1040x, HG–11)	E1730133	$CHF_2OCF_2OC_2F_4OCHF_2$	1,870
HCFE–235ca2 (Enflurane)	13838–16–9	CHF_2OCF_2CHFCl	[b] 583
HCFE–235da2 (Isoflurane)	26675–46–7	$CHF_2OCHClCF_3$	350
HG–02	205367–61–9	$HF_2C\text{-}(OCF_2CF_2)$	[b] 3,825
HG–03	173350–37–3	$HF_2C\text{-}(OCF_2CF_2)$	[b] 3,670
HG–20	249932–25–0	$HF_2C\text{-}(OCF_2)$	[b] 5,300
HG–21	249932–26–1	$HF_2C\text{-}OCF_2CF_2OCF_2OCF_2O\text{–}CF_2H$	[b] 3,890
HG–30	188690–77–9	$HF_2C\text{-}(OCF_2)$	[b] 7,330
1,1,3,3,4,4,6,6,7,7,9,9,10,10,12,12,13,13,15,15-eicosafluoro-2,5,8,11,14-Pentaoxapentadecane.	173350–38–4	$HCF_2O(CF_2CF_2O)_4CF_2H$	[b] 3,630
1,1,2-Trifluoro-2-(trifluoromethoxy)-ethane	84011–06–3	$CHF_2CHFOCF_3$	[b] 1,240
Trifluoro(fluoromethoxy)methane	2261–01–0	CH_2FOCF_3	[b] 751
Saturated HFEs and HCFEs With Three or More Carbon-Hydrogen Bonds			
HFE–143a	421–14–7	CH_3OCF_3	756
HFE–245cb2	22410–44–2	$CH_3OCF_2CF_3$	708
HFE–245fa1	84011–15–4	$CHF_2CH_2OCF_3$	286
HFE–245fa2	1885–48–9	$CHF_2OCH_2CF_3$	659
HFE–254cb2	425–88–7	$CH_3OCF_2CHF_2$	359
HFE–263fb2	460–43–5	$CF_3CH_2OCH_3$	11
HFE–263m1; R–E–143a	690–22–2	$CF_3OCH_2CH_3$	[b] 29
HFE–347mcc3 (HFE–7000)	375–03–1	$CH_3OCF_2CF_2CF_3$	575
HFE–347mcf2	171182–95–9	$CF_3CF_2OCH_2CHF_2$	374
HFE–347mmy1	22052–84–2	$CH_3OCF(CF_3)_2$	343
HFE–347mmz1 (Sevoflurane)	28523–86–6	$(CF_3)_2CHOCH_2F$	[c] 216
HFE–347pcf2	406–78–0	$CHF_2CF_2OCH_2CF_3$	580
HFE–356mec3	382–34–3	$CH_3OCF_2CHFCF_3$	101
HFE–356mff2	333–36–8	$CF_3CH_2OCH_2CF_3$	[b] 17

TABLE A–1 TO SUBPART A OF PART 98—GLOBAL WARMING POTENTIALS—Continued

[100-Year Time Horizon]

Name	CAS No.	Chemical formula	Global warming potential (100 yr.)
HFE–356mmz1	13171–18–1	(CF_3)	27
HFE–356pcc3	160620–20–2	$CH_3OCF_2CF_2CHF_2$	110
HFE–356pcf2	50807–77–7	$CHF_2CH_2OCF_2CHF_2$	265
HFE–356pcf3	35042–99–0	CHF_2OCH	502
HFE–365mcf2	22052–81–9	$CF_3CF_2OCH_2CH_3$	[b] 58
HFE–365mcf3	378–16–5	$CF_3CF_2CH_2OCH_3$	11
HFE–374pc2	512–51–6	$CH_3CH_2OCF_2CHF_2$	557
HFE–449s1 (HFE–7100) Chemical blend	163702–07–6 163702–08–7	C_4F (CF_3).	297
HFE–569sf2 (HFE–7200) Chemical blend	163702–05–4 163702–06–5	$C_4F_9OC_2H_5$ $(CF_3)_2CFCF_2OC_2H_5$.	59
HG'-01	73287–23–7	$CH_3OCF_2CF_2OCH_3$	[b] 222
HG'-02	485399–46–0	$CH_3O(CF_2CF_2O)_2CH_3$	[b] 236
HG'-03	485399–48–2	$CH_3O(CF_2CF_2O)$	[b] 221
Difluoro(methoxy)methane	359–15–9	CH_3OCHF_2	[b] 144
2-Chloro-1,1,2-trifluoro-1-methoxyethane	425–87–6	CH_3OCF_2CHFCl	[b] 122
1-Ethoxy-1,1,2,2,3,3,3-heptafluoropropane	22052–86–4	$CF_3CF_2CF_2OCH_2CH_3$	[b] 61
2-Ethoxy-3,3,4,4,5-pentafluorotetrahydro-2,5-bis[1,2,2,2-tetrafluoro-1-(trifluoromethyl)ethyl]-furan.	920979–28–8	$C_{12}H_5F_{19}O_2$	[b] 56
1-Ethoxy-1,1,2,3,3,3-hexafluoropropane	380–34–7	CF_3CHFCF	[b] 23
Fluoro(methoxy)methane	460–22–0	CH_3OCH_2F	[b] 13
1,1,2,2-Tetrafluoro-3-methoxy-propane; Methyl 2,2,3,3-tetrafluoro propyl ether.	60598–17–6	$CHF_2CF_2CH_2OCH_3$	[b] 0.5
1,1,2,2-Tetrafluoro-1-(fluoromethoxy)ethane	37031–31–5	$CH_2FOCF_2CF_2H$	[b] 871
Difluoro(fluoromethoxy)methane	461–63–2	CH_2FOCHF_2	[b] 617
Fluoro(fluoromethoxy)methane	462–51–1	CH_2FOCH_2F	[b] 130
Fluorinated Formates			
Trifluoromethyl formate	85358–65–2	$HCOOCF_3$	[b] 588
Perfluoroethyl formate	313064–40–3	$HCOOCF_2CF_3$	[b] 580
1,2,2,2-Tetrafluoroethyl formate	481631–19–0	$HCOOCHFCF_3$	[b] 470
Perfluorobutyl formate	197218–56–7	$HCOOCF_2CF_2CF_2CF_3$	[b] 392
Perfluoropropyl formate	271257–42–2	$HCOOCF_2CF_2CF_3$	[b] 376
1,1,1,3,3,3-Hexafluoropropan-2-yl formate	856766–70–6	$HCOOCH(CF_3)$	[b] 333
2,2,2-Trifluoroethyl formate	32042–38–9	$HCOOCH_2CF_3$	[b] 33
3,3,3-Trifluoropropyl formate	1344118–09–7	$HCOOCH_2CH_2CF_3$	[b] 17
Fluorinated Acetates			
Methyl 2,2,2-trifluoroacetate	431–47–0	CF_3COOCH_3	[b] 52
1,1-Difluoroethyl 2,2,2-trifluoroacetate	1344118–13–3	$CF_3COOCF_2CH_3$	[b] 31
Difluoromethyl 2,2,2-trifluoroacetate	2024–86–4	$CF_3COOCHF_2$	[b] 27
2,2,2-Trifluoroethyl 2,2,2-trifluoroacetate	407–38–5	$CF_3COOCH_2CF_3$	[b] 7
Methyl 2,2-difluoroacetate	433–53–4	HCF_2COOCH_3	[b] 3
Perfluoroethyl acetate	343269–97–6	$CH_3COOCF_2CF_3$	[b] 2.1
Trifluoromethyl acetate	74123–20–9	CH_3COOCF_3	[b] 2.0
Perfluoropropyl acetate	1344118–10–0	$CH_3COOCF_2CF_2CF_3$	[b] 1.8
Perfluorobutyl acetate	209597–28–4	$CH_3COOCF_2CF_2CF_2CF_3$	[b] 1.6
Ethyl 2,2,2-trifluoroacetate	383–63–1	$CF_3COOCH_2CH_3$	[b] 1.3
Carbonofluoridates			
Methyl carbonofluoridate	1538–06–3	$FCOOCH_3$	[b] 95
1,1-Difluoroethyl carbonofluoridate	1344118–11–1	$FCOOCF_2CH_3$	[b] 27
Fluorinated Alcohols Other Than Fluorotelomer Alcohols			
Bis(trifluoromethyl)-methanol	920–66–1	$(CF_3)_2CHOH$	195
(Octafluorotetramethy-lene) hydroxymethyl group	NA	$X-(CF_2)_4CH(OH)-X$	73
2,2,3,3,3-Pentafluoropropanol	422–05–9	$CF_3CF_2CH_2OH$	42
2,2,3,3,4,4,4-Heptafluorobutan-1-ol	375–01–9	C_3F_7CH2OH	[b] 25
2,2,2-Trifluoroethanol	75–89–8	CF_3CH_2OH	[b] 20
2,2,3,4,4,4-Hexafluoro-1-butanol	382–31–0	$CF_3CHFCF_2CH_2OH$	[b] 17
2,2,3,3-Tetrafluoro-1-propanol	76–37–9	$CHF_2CF_2CH_2OH$	[b] 13
2,2-Difluoroethanol	359–13–7	CHF_2CH2OH	[b] 3
2-Fluoroethanol	371–62–0	CH_2FCH_2OH	[b] 1.1
4,4,4-Trifluorobutan-1-ol	461–18–7	$CF_3(CH_2)$	[b] 0.05

TABLE A–1 TO SUBPART A OF PART 98—GLOBAL WARMING POTENTIALS—Continued

[100-Year Time Horizon]

Name	CAS No.	Chemical formula	Global warming potential (100 yr.)
Unsaturated Perfluorocarbons (PFCs)			
PFC–1114; TFE	116–14–3	$CF_2=CF_2$; C_2F_4	[b] 0.004
PFC–1216; Dyneon HFP	116–15–4	C_3F_6; $CF_3CF=CF_2$	[b] 0.05
PFC C–1418	559–40–0	c-C_5F_8	[b] 1.97
Perfluorobut-2-ene	360–89–4	$CF_3CF=CFCF_3$	[b] 1.82
Perfluorobut-1-ene	357–26–6	$CF_3CF_2CF=CF_2$	[b] 0.10
Perfluorobuta-1,3-diene	685–63–2	$CF_2=CFCF=CF_2$	[b] 0.003
Unsaturated Hydrofluorocarbons (HFCs) and Hydrochlorofluorocarbons (HCFCs)			
HFC–1132a; VF2	75–38–7	C_2H	[b] 0.04
HFC–1141; VF	75–02–5	C_2H	[b] 0.02
(E)-HFC–1225ye	5595–10–8	$CF_3CF=CHF(E)$	[b] 0.06
(Z)-HFC–1225ye	5528–43–8	$CF_3CF=CHF(Z)$	[b] 0.22
Solstice 1233zd(E)	102687–65–0	$C_3H_2ClF_3$; $CHCl=CHCF_3$	[b] 1.34
HFC–1234yf; HFO–1234yf	754–12–1	$C_3H_2F_4$; $CF_3CF=CH_2$	[b] 0.31
HFC–1234ze(E)	1645–83–6	$C_3H_2F_4$; trans-$CF_3CH=CHF$	[b] 0.97
HFC–1234ze(Z)	29118–25–0	$C_3H_2F_4$cis-$CF_3CH=CHF$; $CF_3CH=CHF$	[b] 0.29
HFC–1243zf; TFP	677–21–4	$C_3H_3F_3$, $CF_3CH=CH_2$	[b] 0.12
(Z)-HFC–1336	692–49–9	$CF_3CH=CHCF_3(Z)$	[b] 1.58
HFC–1345zfc	374–27–6	$C_2F_5CH=CH_2$	[b] 0.09
Capstone 42–U	19430–93–4	$C_6H_3F_9$, $CF_3(CF_2)$	[b] 0.16
Capstone 62–U	25291–17–2	$C_8H_3F_{13}$, $CF_3(CF_2)_5CH=CH_2$	[b] 0.11
Capstone 82–U	21652–58–4	$C_{10}H_3F_{17}$, $CF_3(CF_2)_7CH=CH_2$	[b] 0.09
Unsaturated Halogenated Ethers			
PMVE; HFE–216	1187–93–5	$CF_3OCF=CF_2$	[b] 0.17
Fluoroxene	406–90–6	$CF_3CH_2OCH=CH_2$	[b] 0.05
Fluorinated Aldehydes			
3,3,3-Trifluoro-propanal	460–40–2	CF_3CH_2CHO	[b] 0.01
Fluorinated Ketones			
Novec 1230 (perfluoro (2-methyl-3-pentanone))	756–13–8	$CF_3CF_2C(O)CF\ (CF3)_2$	[b] 0.1
Fluorotelomer Alcohols			
3,3,4,4,5,5,6,6,7,7,7-Undecafluoroheptan-1-ol	185689–57–0	CF	[b] 0.43
3,3,3-Trifluoropropan-1-ol	2240–88–2	$CF_3CH_2CH_2OH$	[b] 0.35
3,3,4,4,5,5,6,6,7,7,8,8,9,9,9-Pentadecafluorononan-1-ol	755–02–2	$CF_3(CF_2)_6CH_2CH_2OH$	[b] 0.33
3,3,4,4,5,5,6,6,7,7,8,8,9,9,10,10,11,11,11-Nonadecafluoroundecan-1-ol.	87017–97–8	$CF_3(CF_2)_8CH_2CH_2OH$	[b] 0.19
Fluorinated GHGs With Carbon-Iodine Bond(s)			
Trifluoroiodomethane	2314–97–8	CF_3I	[b] 0.4
Other Fluorinated Compounds			
Dibromodifluoromethane (Halon 1202)	75–61–6	CBR_2F_2	[b] 231
2-Bromo-2-chloro-1,1,1-trifluoroethane (Halon-2311/Halothane)	151–67–7	$CHBrClCF_3$	[b] 41
Fluorinated GHG Group [d]			Global warming potential (100 yr.)
Default GWPs for Compounds for Which Chemical-Specific GWPs Are Not Listed Above			
Fully fluorinated GHGs			10,000
Saturated hydrofluorocarbons (HFCs) with 2 or fewer carbon-hydrogen bonds			3,700
Saturated HFCs with 3 or more carbon-hydrogen bonds			930
Saturated hydrofluoroethers (HFEs) and hydrochlorofluoroethers (HCFEs) with 1 carbon-hydrogen bond			5,700
Saturated HFEs and HCFEs with 2 carbon-hydrogen bonds			2,600
Saturated HFEs and HCFEs with 3 or more carbon-hydrogen bonds			270
Fluorinated formates			350

Fluorinated GHG Group [d]	Global warming potential (100 yr.)
Fluorinated acetates, carbonofluoridates, and fluorinated alcohols other than fluorotelomer alcohols	30
Unsaturated perfluorocarbons (PFCs), unsaturated HFCs, unsaturated hydrochlorofluorocarbons (HCFCs), unsaturated halogenated ethers, unsaturated halogenated esters, fluorinated aldehydes, and fluorinated ketones	1
Fluorotelomer alcohols	1
Fluorinated GHGs with carbon-iodine bond(s)	1
Other fluorinated GHGs	2,000

[a] The GWP for this compound was updated in the final rule published on November 29, 2013 [78 FR 71904] and effective on January 1, 2014.
[b] This compound was added to Table A–1 in the final rule published on December 11, 2014, and effective on January 1, 2015.
[c] The GWP for this compound was updated in the final rule published on December 11, 2014, and effective on January 1, 2015 .
[d] For electronics manufacturing (as defined in § 98.90), the term "fluorinated GHGs" in the definition of each fluorinated GHG group in § 98.6 shall include fluorinated heat transfer fluids (as defined in § 98.98), whether or not they are also fluorinated GHGs.

■ 7. Table A–7 of subpart A is revised to read as follows:

TABLE A–7 TO SUBPART A OF PART 98—DATA ELEMENTS THAT ARE INPUTS TO EMISSION EQUATIONS AND FOR WHICH THE REPORTING DEADLINE IS MARCH 31, 2015

Subpart	Rule citation (40 CFR part 98)	Specific data elements for which reporting date is March 31, 2015 ("All" means all data elements in the cited paragraph are not required to be reported until March 31, 2015)
A	98.3(d)(3)(v)	All.[a]
C	98.36(b)(9)(iii)	Only estimate of the heat input.[a]
C	98.36(c)(2)(ix)	Only estimate of the heat input from each type of fuel listed in Table C–2.[a]
C	98.36(e)(2)(i)	All.[a]
C	98.36(e)(2)(ii)(A)	All.[a]
C	98.36(e)(2)(ii)(C)	Only HHV value for each calendar month in which HHV determination is required.[a]
C	98.36(e)(2)(ii)(D)	All.[a]
C	98.36(e)(2)(iv)(A)	All.[a]
C	98.36(e)(2)(iv)(C)	All.[a]
C	98.36(e)(2)(iv)(F)	All.[a]
C	98.36(e)(2)(ix)(D)	All.[a]
C	98.36(e)(2)(ix)(E)	All.[a]
C	98.36(e)(2)(ix)(F)	All.[a]
E	98.56(g)	All.
E	98.56(h)	All.
E	98.56(j)(4)	All.
E	98.56(j)(5)	All.
E	98.56(j)(6)	All.
E	98.56(l)	All.
H	98.86(b)(11)	All.
H	98.86(b)(13)	Name of raw kiln feed or raw material.
O	98.156(d)(2)	All.
O	98.156(d)(3)	All.
O	98.156(d)(4)	All.
Q	98.176(f)(1)	All.
W	98.236(c)(1)(i)	All.
W	98.236(c)(1)(ii)	All.
W	98.236(c)(1)(iii)	All.
W	98.236(c)(2)(i)	All.
W	98.236(c)(3)(i)	All.
W	98.236(c)(3)(ii)	Only Calculation Methodology 2.
W	98.236(c)(3)(iii)	All.
W	98.236(c)(3)(iv)	All.
W	98.236(c)(4)(i)(A)	All.
W	98.236(c)(4)(i)(B)	All.
W	98.236(c)(4)(i)(C)	All.
W	98.236(c)(4)(i)(D)	All.
W	98.236(c)(4)(i)(E)	All.
W	98.236(c)(4)(i)(F)	All.
W	98.236(c)(4)(i)(G)	All.
W	98.236(c)(4)(i)(H)	All.
W	98.236(c)(4)(ii)(A)	All.
W	98.236(c)(5)(i)(D)	All.
W	98.236(c)(5)(ii)(C)	All.
W	98.236(c)(6)(i)(B)	All.[b]
W	98.236(c)(6)(i)(D)	All.[b]
W	98.236(c)(6)(i)(E)	All.[b]
W	98.236(c)(6)(i)(F)	All.[b]

TABLE A–7 TO SUBPART A OF PART 98—DATA ELEMENTS THAT ARE INPUTS TO EMISSION EQUATIONS AND FOR WHICH THE REPORTING DEADLINE IS MARCH 31, 2015—Continued

Subpart	Rule citation (40 CFR part 98)	Specific data elements for which reporting date is March 31, 2015 ("All" means all data elements in the cited paragraph are not required to be reported until March 31, 2015)
W	98.236(c)(6)(i)(G)	Only the amount of natural gas required.
W	98.236(c)(6)(i)(H)	Only the amount of natural gas required.
W	98.236(c)(6)(ii)(A)	All.
W	98.236(c)(6)(ii)(B)	All.
W	98.236(c)(7)(i)(A)	Only for Equation W–14A.
W	98.236(c)(8)(i)(F)	All.[b]
W	98.236(c)(8)(i)(K)	All.
W	98.236(c)(8)(ii)(A)	All.[b]
W	98.236(c)(8)(ii)(H)	All.
W	98.236(c)(8)(iii)(A)	All.
W	98.236(c)(8)(iii)(B)	All.
W	98.236(c)(8)(iii)(G)	All.
W	98.236(c)(12)(ii)	All.
W	98.236(c)(12)(v)	All.
W	98.236(c)(13)(i)(E)	All.
W	98.236(c)(13)(i)(F)	All.
W	98.236(c)(13)(ii)(A)	All.
W	98.236(c)(13)(ii)(B)	All.
W	98.236(c)(13)(iii)(A)	All.
W	98.236(c)(13)(iii)(B)	All.
W	98.236(c)(13)(v)(A)	All.
W	98.236(c)(14)(i)(B)	All.
W	98.236(c)(14)(ii)(A)	All.
W	98.236(c)(14)(ii)(B)	All.
W	98.236(c)(14)(iii)(A)	All.
W	98.236(c)(14)(iii)(B)	All.
W	98.236(c)(14)(v)(A)	All.
W	98.236(c)(15)(ii)(A)	All.
W	98.236(c)(15)(ii)(B)	All.
W	98.236(c)(16)(viii)	All.
W	98.236(c)(16)(ix)	All.
W	98.236(c)(16)(x)	All.
W	98.236(c)(16)(xi)	All.
W	98.236(c)(16)(xii)	All.
W	98.236(c)(16)(xiii)	All.
W	98.236(c)(16)(xiv)	All.
W	98.236(c)(16)(xv)	All.
W	98.236(c)(16)(xvi)	All.
W	98.236(c)(17)(ii)	All.
W	98.236(c)(17)(iii)	All.
W	98.236(c)(17)(iv)	All.
W	98.236(c)(18)(i)	All.
W	98.236(c)(18)(ii)	All.
W	98.236(c)(19)(iv)	All.
W	98.236(c)(19)(vii)	All.
Y	98.256(h)(5)(i)	Only value of the correction.
Y	98.256(k)(4)	Only mole fraction of methane in coking gas.
Y	98.256(n)(3)	All (if used in Equation Y–21 to calculate emissions from equipment leaks).
Y	98.256(o)(4)(vi)	Only tank-specific methane composition data and gas generation rate data.
AA	98.276(e)	All.
CC	98.296(b)(10)(i)	All.
CC	98.296(b)(10)(ii)	All.
CC	98.296(b)(10)(iii)	All.
CC	98.296(b)(10)(iv)	All.
CC	98.296(b)(10)(v)	All.
CC	98.296(b)(10)(vi)	All.
II	98.356(d)(2)	All (if conducting weekly sampling).
II	98.356(d)(3)	All (if conducting weekly sampling).
II	98.356(d)(4)	Only weekly average temperature (if conducting weekly sampling).
II	98.356(d)(5)	Only weekly average moisture content (if conducting weekly sampling).
II	98.356(d)(6)	Only weekly average pressure (if conducting weekly sampling).

[a] Required to be reported only by: (1) Stationary fuel combustion sources (*e.g.,* individual units, aggregations of units, common pipes, or common stacks) subject to subpart C of this part that contain at least one combustion unit connected to a fuel-fired electric generator owned or operated by an entity that is subject to regulation of customer billing rates by the PUC (excluding generators connected to combustion units subject to 40 CFR part 98, subpart D) and that are located at a facility for which the sum of the nameplate capacities for all such electric generators is greater than or equal to 1 megawatt electric output; and (2) stationary fuel combustion sources (*e.g.,* individual units, aggregations of units, common pipes, or common stacks) subject to subpart C of this part that do not meet the criteria in (1) of this footnote that elect to report these data elements, as provided in § 98.36(a), for reporting year 2014.

[b] This rule citation provides an option to delay reporting of this data element for certain wildcat wells and/or delineation wells.

Subpart I—Electronics Manufacturing

■ 8. Section 98.93 is amended by revising paragraph (i)(2) to read as follows:

§ 98.93 Calculating GHG emissions.

* * * * *

(i) * * *

(2) *Method selection for stack systems in the fab.* If the calculations under paragraph (i)(1) of this section, as well as any subsequent annual measurements and calculations under this subpart, indicate that the stack system meets the criteria in paragraph (i)(2)(i) through (iii) of this section, then you may comply with either paragraph (i)(3) of this section (stack test method) or paragraph (i)(4) of this section (method to estimate emissions from the stack systems that are not tested). If the stack system does not meet all three criteria in paragraph (i)(2)(i) through (iii) of this section, then you must comply with the stack test method specified in paragraph (i)(3) of this section.

* * * * *

■ 9. Section 98.94 is amended by removing paragraph (j)(5)(ii)(C) and revising paragraph (j)(8)(i) to read as follows:

§ 98.94 Monitoring and QA/QC requirements.

* * * * *

(j) * * *

(8) * * *

(i) Annual consumption of a fluorinated GHG used during the most recent emissions test (expressed in CO_2e) changes by more than 10 percent of the total annual fluorinated GHG consumption, relative to gas consumption in CO_2e for that gas during the year of the most recent emissions test (for example, if the use of a single gas goes from 25 percent of CO_2e to greater than 35 percent of CO_2e, this change would trigger a re-test).

* * * * *

■ 10. Section 98.96 is amended by:

■ a. Revising the parameter ''GWP_i'' of Equation I–26 in paragraph (r) introductory text;

■ b. Revising the parameters ''GWP_i'' and ''GWP_k'' of Equation I–27 in paragraph (r)(1);

■ c. Revising the parameters ''GWP_i'' and ''GWP_k'' of Equation I–28 in paragraph (r)(2); and

■ d. Revising paragraph (x).

The revisions read as follows:

§ 98.96 Data reporting requirements.

* * * * *

(r) * * *

* * * * *

GWP_i = GWP of emitted fluorinated GHG i from Table A–1 of this part.

* * * * *

(1) * * *

GWP_i = GWP of emitted fluorinated GHG i from Table A–1 of this part.

GWP_k = GWP of emitted fluorinated GHG by-product k from Table A–1 of this part.

* * * * *

(2) * * *

GWP_i = GWP of emitted fluorinated GHG i from Table A–1 of this part.

GWP_k = GWP of emitted fluorinated GHG by-product k from Table A–1 of this part.

* * * * *

(x) If the emissions you report under paragraph (c) of this section include emissions from research and development activities, as defined in § 98.6, report the approximate percentage of total GHG emissions, on a metric ton CO_2e basis, that are attributable to research and development activities, using the following ranges: less than 5 percent, 5 percent to less than 10 percent, 10 percent to less than 25 percent, 25 percent to less than 50 percent, 50 percent and higher.

* * * * *

Subpart L—Fluorinated Gas Production

■ 11. Section 98.122 is amended by revising paragraph (c) and adding paragraphs (d), (e) and (f) to read as follows:

§ 98.122 GHGs to report.

* * * * *

(c) *Emissions from production and transformation processes, process level.* You must report, for each fluorinated GHG group, the total GWP-weighted mass of all fluorinated GHGs in that group (in metric tons CO_2e) emitted from:

(1) Each fluorinated gas production process.

(2) Each fluorinated gas transformation process that is not part of a fluorinated gas production process and where no fluorinated GHG reactant is produced at another facility.

(3) Each fluorinated gas transformation process that is not part of a fluorinated gas production process and where one or more fluorinated GHG reactants are produced at another facility.

(d) *Emissions from production and transformation processes, facility level, multiple products.* If your facility produces more than one fluorinated gas product, you must report the emissions (in metric tons) from production and transformation processes, totaled across the facility as a whole, of each fluorinated GHG that is emitted in quantities of 1,000 metric tons of CO_2e or more from production or transformation processes, totaled across the facility as a whole. Aggregate and report emissions of all other fluorinated GHGs from production and transformation processes by fluorinated GHG group for the facility as a whole, in metric tons of CO_2e.

(e) *Emissions from production and transformation processes, facility level, one product only.* If your facility produces only one fluorinated gas product, aggregate and report the GWP-weighted emissions from production and transformation processes of fluorinated GHGs by fluorinated GHG group for the facility as a whole, in metric tons CO_2e, with the following exception: Where emissions consist of a major fluorinated GHG constituent of a fluorinated gas product, and the product is sold or transferred to another person, report the total mass of each fluorinated GHG that is emitted from production and transformation processes and that is a major fluorinated GHG constituent of the product (in metric tons).

(f) *Emissions from destruction processes and venting of containers.* You must report the total mass of each fluorinated GHG emitted (in metric tons) from:

(1) Each fluorinated gas destruction process that is not part of a fluorinated gas production process or a fluorinated gas transformation process and all such fluorinated gas destruction processes combined.

(2) Venting of residual fluorinated GHGs from containers returned from the field.

■ 12. Section 98.123 is amended by:

■ a. Revising the introductory text;

■ b. Removing and reserving paragraph (a);

■ c. Revising paragraph (b);

■ d. Revising paragraph (c)(1)(v);

■ e. Removing and reserving paragraph (c)(1)(vi);

■ f. Redesignating paragraphs (e)(i) and (e)(ii) as paragraphs (e)(1) and (e)(2), respectively;

■ g. Revising paragraphs (g)(1), (g)(2)(ii), and (g)(2)(iv); and

■ h. Adding paragraph (h).

The revisions and additions read as follows:

§ 98.123 Calculating GHG emissions.

For fluorinated gas production and transformation processes, you must calculate the fluorinated GHG emissions from each process using the emission

factor or emission calculation factor method specified in paragraphs (c), (d), and (e) of this section, as appropriate. For destruction processes that destroy fluorinated GHGs that were previously ''produced'' as defined at § 98.410(b), you must calculate emissions using the procedures in paragraph (f) of this section. For venting of residual gas from containers (*e.g.,* cylinder heels), you must calculate emissions using the procedures in paragraph (g) of this section.

(a) [Reserved]

(b) *Mass balance method.* The mass balance method was available for reporting years 2011, 2012, 2013, and 2014 only. See paragraph 1 of Appendix A of this subpart for the former mass balance method.

(c) * * *

(1) * * *

(v) *GWPs.* To convert the fluorinated GHG emissions to CO_2e, use Equation A–1 of § 98.2.

(vi) [Reserved]

* * * * *

(g) * * *

(1) *Measuring contents of each container.* If you weigh or otherwise measure the contents of each container before venting the residual fluorinated GHGs, use Equation L–32 of this section to calculate annual emissions of each fluorinated GHG from venting of residual fluorinated GHG from containers. Convert pressures to masses as directed in paragraph (g)(2)(ii) of this section.

$$E_{Cf} = \sum_{1}^{n} H_{Bfj} - \sum_{1}^{n} H_{Efj} \qquad \text{(Eq. L-32)}$$

Where:

E_{Cf} = Total mass of each fluorinated GHG f emitted from the facility through venting of residual fluorinated GHG from containers, annual basis (metric tons/year).

H_{Bfj} = Mass of residual fluorinated GHG f in container j when received by facility (metric tons).

H_{Efj} = Mass of residual fluorinated GHG f in container j after evacuation by facility (metric tons). (Facility may equate to zero.)

n = Number of vented containers for each fluorinated GHG f.

(2) * * *

(ii) *Measurement of residual gas.* The residual weight or pressure you use for paragraph (g)(1) of this section must be determined by monitoring the mass or the pressure of your cylinders/containers according to § 98.124(k). If you monitor the pressure, convert the pressure to mass using a form of the ideal gas law, as displayed in Equation L–33 of this section, with an appropriately selected Z value.

$$m_R = \frac{p * V * MW}{Z * R * T * 10^6} \qquad \text{(Eq. L-33)}$$

Where:

m_R = Mass of residual gas in the container (metric ton).

p = Absolute pressure of the gas (Pa).

V = Volume of the gas (m^3).

MW = Molecular weight of the fluorinated GHG f (g/gmole).

Z = Compressibility factor.

R = Gas constant (8.314 Pa m^3/Kelvin mole).

T = Absolute temperature (K).

10^6 = Conversion factor (10^6 g/metric ton).

* * * * *

(iv) Calculate annual emissions of each fluorinated GHG from venting of residual fluorinated GHG from containers using Equation L–34 of this section.

$$E_{Cf} = \sum_{j=1}^{n} h_{fj} * N_{fj} * F_{fj} \qquad \text{(Eq. L-34)}$$

Where:

E_{Cf} = Total mass of each fluorinated GHG f emitted from the facility through venting of residual fluorinated GHG from containers, annual basis (metric tons/year).

h_{fj} = Facility-wide gas-specific heel factor for fluorinated GHG f (fraction) and container size and type j, as determined in paragraph (g)(2)(iii) of this section.

N_{fj} = Number of containers of size and type j returned to the fluorinated gas production facility.

F_{fj} = Full capacity of containers of size and type j containing fluorinated GHG f (metric tons).

n = Number of combinations of container sizes and types for fluorinated GHG f.

(h) *Effective destruction efficiency for each process.* If you used the emission factor or emission calculation factor method to calculate emissions from the process, use Equation L–35 to calculate the effective destruction efficiency for the process, including each process vent:

$$DE_{Effective} = 1 - \frac{\sum_{1}^{w}\left(\sum_{1}^{o}\sum_{1}^{v} E_{PVf}\right) \times GWP_f}{\sum_{1}^{w}\left(\sum_{1}^{o}\sum_{1}^{v} ECF_{PV-Uf} \times \left(Activity_U + Activity_C\right)\right) \times GWP_f + \sum_{1}^{w}\left(\sum_{1}^{o}\sum_{1}^{v} EF_{PV-Uf} \times \left(Activity_U + Activity_C\right)\right) \times GWP_f}$$

(Eq. L-35)

Where:

$DE_{Effective}$ = Effective destruction efficiency for process i (fraction).

E_{PVf} = Mass of fluorinated GHG f emitted from process vent v from process i, operating scenario j, for the year, calculated in Equation L–21, L–22, L–26, or L–27 of this section (kg).

GWP_f = Global warming potential for each greenhouse gas from Table A–1 of subpart A of this part.

ECF_{PV-Uf} = Emission calculation factor for fluorinated GHG f emitted from process vent v during process i, operating scenario j during periods when the process vent is not vented to the properly functioning destruction device, as used in Equation L–21; or emission calculation factor for fluorinated GHG f emitted from process vent v during process i, operating scenario j, as used in Equation L–26 or L–27 (kg emitted/activity) (*e.g.,* kg emitted/kg product), denoted as ''ECF_{PV}'' in those equations.

EF_{PV-Uf} = Emission factor (uncontrolled) for fluorinated GHG f emitted from process vent v during process i, operating scenario j, as used in Equation L–22 (kg emitted/activity) (*e.g.,* kg emitted/kg product), denoted as ''EF_{PV-U}'' in that equation.

$Activity_U$ = Total process feed, process production, or other process activity for process i, operating scenario j during the year, for which the process vent is not vented to the properly functioning destruction device (*i.e.,* uncontrolled).

$Activity_C$ = Total process feed, process production, or other process activity for process i, operating scenario j during the year, for which emissions are vented to the properly functioning destruction device (*i.e.,* controlled).

o = Number of operating scenarios for process i.

v = Number of process vents in process i, operating scenario j.

w = Number of fluorinated GHGs emitted from the process.

■ 5. Section 98.124 is amended by revising paragraphs (b) and (c)(1), (2) and (5) and redesignating paragraphs (c)(7) through (9) as paragraphs (c)(6) through (8).

The revisions read as follows:

§ 98.124 Monitoring and QA/QC requirements.

* * * * *

(b) *Mass balance monitoring.* Mass balance monitoring was available for reporting years 2011, 2012, 2013, and 2014 only. See paragraph 2 of Appendix A of this subpart for the former mass balance method.

(c) * * *

(1) *Process vent testing.* Conduct an emissions test that is based on representative performance of the process or operating scenario(s) of the process, as applicable. For process vents for which you performed an initial scoping speciation, include in the emission test any fluorinated GHG that was identified in the initial scoping speciation. For process vents for which you did not perform an initial scoping speciation, include in the emission test any fluorinated greenhouse gas that occurs in more than trace concentrations in the vent stream or, where a destruction device is used, in the inlet to the destruction device. You may include startup and shutdown events if the testing is sufficiently long or comprehensive to ensure that such events are not overrepresented in the emission factor. Malfunction events must not be included in the testing. If you do not detect a fluorinated GHG that was identified in the scoping speciation or that occurs in more than trace concentrations in the vent stream or in the inlet to the destruction device, assume that fluorinated GHG was emitted at one half of the detection limit.

(2) *Number of runs.* For continuous processes, sample the process vent for a minimum of three runs of 1 hour each. If the relative standard deviation (RSD) of the emission factor calculated based on the first three runs is greater than or equal to 0.15 for the emission factor, continue to sample the process vent for an additional three runs of 1 hour each. If more than one fluorinated GHG is measured, the RSD must be expressed in terms of total CO_2e.

* * * * *

(5) *Emission test results.* The results of an emission test must include the analysis of samples, number of test runs, the results of the RSD analysis, the analytical method used, determination of emissions, the process activity, and raw data and must identify the process, the operating scenario, the process vents tested, and the fluorinated GHGs that were included in the test. The emissions test report must contain all information and data used to derive the process-vent-specific emission factor, as well as key process conditions during the test. Key process conditions include those that are normally monitored for process control purposes and may include but are not limited to yields, pressures, temperatures, etc. (*e.g.,* of reactor vessels, distillation columns).

* * * * *

■ 6. Section 98.126 is amended by:

■ a. Revising paragraphs (a) through (e);

■ b. Removing and reserving paragraphs (f)(1), (f)(5), and (g)(1);

■ c. Revising paragraphs (g)(2) and (h)(1);

■ d. Removing and reserving paragraph (h)(2); and

■ e. Adding paragraph (k).

The revisions and additions read as follows:

§ 98.126 Data reporting requirements.

(a) *All facilities.* In addition to the information required by § 98.3(c), you must report the information in paragraphs (a)(2) through (6) of this section according to the schedule in paragraph (a)(1) of this section, except as otherwise provided in paragraph (j) of this section or in § 98.3(c)(4)(vii) and Table A–7 of subpart A of this part.

(1) *Frequency of reporting under paragraph (a) of this section.* The information in paragraphs (a)(2) through (6) of this section must be reported annually.

(2) *Generically-identified process.* For each production and transformation process at the facility, you must:

(i) Provide a number, letter, or other identifier for the process. This identifier must be consistent from year to year.

(ii) Indicate whether the process is a fluorinated gas production process, a fluorinated gas transformation process where no fluorinated GHG reactant is produced at another facility, or a fluorinated gas transformation process where one or more fluorinated GHG reactants are produced at another facility.

(iii) Indicate whether the process could be characterized as reaction, distillation, or packaging (include all that apply).

(iv) For each generically-identified process and each fluorinated GHG group, report the method(s) used to determine the mass emissions of that fluorinated GHG group from that process from vents (*i.e.,* mass balance (for reporting years 2011, 2012, 2013, and 2014 only), process-vent-specific emission factor, or process-vent-specific emission calculation factor).

(v) For each generically-identified process and each fluorinated GHG group, report the method(s) used to determine the mass emissions of that fluorinated GHG group from that process from equipment leaks, unless you used the mass balance method (for reporting years 2011, 2012, 2013, and 2014 only) for that process.

(3) *Emissions from production and transformation processes, process level, multiple products.* If your facility produces more than one fluorinated gas product, for each generically-identified process and each fluorinated GHG group, you must report the total GWP-weighted emissions of all fluorinated GHGs in that group from the process, in metric tons CO_2e.

(4) *Emissions from production and transformation processes, facility level, multiple products.* If your facility

produces more than one fluorinated gas product, you must report the information in paragraphs (a)(4)(i) and (ii) of this section, as applicable, for emissions from production and transformation processes.

(i) For each fluorinated GHG with emissions of 1,000 metric tons of CO_2e or more from production and transformation processes, summed across the facility as a whole, you must report the total mass in metric tons of the fluorinated GHG emitted from production and transformation processes, summed across the facility as a whole. If the fluorinated GHG does not have a chemical-specific GWP in Table A–1 of subpart A, identify the fluorinated GHG group of which that fluorinated GHG is a member.

(ii) For all other fluorinated GHGs emitted from production and transformation processes, you must report the total GWP-weighted emissions from production and transformation processes of those fluorinated GHGs by fluorinated GHG group, summed across the facility as a whole, in metric tons of CO_2e.

(5) *Emissions from production and transformation processes, facility level, one product only.* If your facility produces only one fluorinated gas product, aggregate and report the total GWP-weighted emissions from production and transformation processes of fluorinated GHGs by fluorinated GHG group for the facility as a whole, in metric tons of CO_2e, with the following exception: Where emissions consist of a major fluorinated GHG constituent of a fluorinated gas product, and the product is sold or transferred to another person, report the total mass in metric tons of each fluorinated GHG that is emitted from production and transformation processes and that is a major fluorinated GHG constituent of the product. If the fluorinated GHG does not have a chemical-specific GWP in Table A–1 of subpart A, identify the fluorinated GHG group of which that fluorinated GHG is a member.

(6) *Effective destruction efficiency.* For each generically-identified process, use Table L–1 of this subpart to report the range that encompasses the effective destruction efficiency, $DE_{effective}$, calculated for that process using Equation L–35 of this subpart. The effective destruction efficiency must be reported on a CO_2e basis.

(b) *Reporting for mass balance method for reporting years 2011, 2012, 2013, and 2014.* If you used the mass balance method to calculate emissions for any of the reporting years 2011, 2012, 2013, or 2014, you must conduct mass balance reporting for that reporting year. For processes whose emissions were determined using the mass balance method under the former § 98.123(b), as included in paragraph 1 of Appendix A of this subpart, you must report the information listed in paragraphs (b)(1) and (b)(2) of this section for each process on an annual basis.

(1) If you calculated the relative and absolute errors under the former § 98.123(b)(1), the overall absolute and relative errors calculated for the process under the former § 98.123(b)(1), in metric tons CO_2e and decimal fraction, respectively.

(2) The method used to estimate the total mass of fluorine in destroyed or recaptured streams (specify the former § 98.123(b)(4) or (15), as included in paragraph 1 of Appendix A of this subpart).

(c) *Reporting for emission factor and emission calculation factor approach.* For processes whose emissions are determined using the emission factor approach under § 98.123(c)(3) or the emission calculation factor under § 98.123(c)(4), you must report the following for each generically-identified process.

(1) [Reserved]

(2) [Reserved]

(3) For each fluorinated GHG group, the total GWP-weighted mass of all fluorinated GHGs in that group emitted from all process vents combined, in metric tons of CO_2e.

(4) For each fluorinated GHG group, the total GWP-weighted mass of all fluorinated GHGs in that group emitted from equipment leaks, in metric tons of CO_2e.

(d) *Reporting for missing data.* Where missing data have been estimated pursuant to § 98.125, you must report:

(1) The generically-identified process for which the data were missing.

(2) The reason the data were missing, the length of time the data were missing, and the method used to estimate the missing data.

(3) Estimates of the missing data for all missing data associated with data elements required to be reported in this section.

(e) *Reporting of destruction device excess emissions data.* Each fluorinated gas production facility that destroys fluorinated GHGs must report the excess emissions that result from malfunctions of the destruction device, and these excess emissions must be reflected in the fluorinated GHG estimates in the former § 98.123(b) as included in paragraph 1 of Appendix A of this subpart for the former mass balance method, and in § 98.123(c). Such excess emissions would occur if the destruction efficiency was reduced due to the malfunction.

* * * * *

(g) * * *

(2) The mass of the fluorinated GHG emitted from the destruction device (metric tons).

(h) * * *

(1) The mass of the residual fluorinated GHG vented from containers annually (metric tons).

* * * * *

(k) *Submission of complete reporting year 2011, 2012, and 2013 GHG reports.* By March 31, 2015, you must submit annual GHG reports for reporting years 2011, 2012, and 2013 that contain the information specified in paragraphs (a) through (i) of this section. The reports must calculate CO_2e using the GWPs in Table A–1 of subpart A of this part (as in effect on January 1, 2015). Prior submission of partial reports for these reporting years under paragraph (j) of this section does not affect your obligation to submit complete reports under this paragraph.

■ 7. Section 98.127 is amended by:
■ a. Revising the introductory text;
■ b. Revising paragraphs (a)(1) and (2);
■ c. Adding paragraphs (a)(3) and (4);
■ d. Revising paragraph (b);
■ e. Revising paragraph (c) introductory text and paragraph (c)(3); and
■ f. Adding paragraph (l).

The revisions and additions read as follows:

§ 98.127 Records that must be retained.

In addition to the records required by § 98.3(g), you must retain the dated records specified in paragraphs (a) through (l) of this section, as applicable.

(a) * * *

(1) Identify all products and processes subject to this subpart. Include the unit identification as appropriate, the generic process identification reported for the process under § 98.126(a)(2)(i) through (iii), and the product with which the process is associated.

(2) Monthly and annual records, as applicable, of all analyses and calculations conducted as required under § 98.123, including the data monitored under § 98.124, and all information reported as required under § 98.126.

(3) Identify all fluorinated GHGs with emissions of 1,000 metric tons CO_2e or more from production and transformation processes, summed across the facility as a whole, and identify all fluorinated GHGs with total emissions less than 1,000 metric tons CO_2e from production and transformation processes, summed across the facility as a whole.

(4) Calculations used to determine the total GWP-weighted emissions of fluorinated GHGs by fluorinated GHG group for each process, in metric tons CO_2e.

(b) *Scoping speciation.* Retain records documenting the information collected under § 98.124(a).

(c) *Mass balance method.* Retain the following records for each process for which the mass balance method was used to estimate emissions in reporting years 2011, 2012, 2013, or 2014. If you used an element other than fluorine in the mass balance equation pursuant to the former § 98.123(b)(3) as included in paragraph 1 of Appendix A of this subpart for the former mass balance method, substitute that element for fluorine in the recordkeeping requirements of this paragraph.

* * * * *

(3) The data and calculations used to determine the fractions of the mass emitted consisting of each reactant (FER_d), product (FEP), and by-product (FEB_k), including the preliminary calculations in the former § 98.123(b)(8)(i).

* * * * *

(l) *Verification software records.* For reporting year 2015 and thereafter, you must enter into verification software specified in § 98.5(b) the data specified in paragraphs (l)(1) through (15) of this section. The data specified in paragraphs (l)(1) through (11) must be entered for each process and each process vent, as applicable. The data specified in paragraphs (l)(1) through (15) must be entered for each fluorinated GHG, as applicable. You must keep a record of the file generated by the verification software specified in § 98.5(b) for the applicable data specified in paragraphs (l)(1) through (15) of this section. Retention of this file satisfies the recordkeeping requirement for the data in paragraphs (l)(1) through (15) of this section.

(1) The identity of the process vent (*e.g.,* name or number assigned by the facility).

(2) The equation used to estimate emissions from the process vent (Equations L–21, L–22, L–26, or L–27).

(3) The type of process activity used to estimate emissions from the process vent (*e.g.,* product of process or reactant consumed by process) (Activity, $Activity_C$, or $Activity_U$) (Equations L–21, L–22, L–26, L–27, L–35).

(4) The quantities of the process activity used to estimate controlled and uncontrolled emissions, respectively, for the process vent, Activity, $Activity_U$, or $Activity_C$, (*e.g.* kg product) (Equations L–21, L–22, L–26, L–27, L–35).

(5) The site-specific, process-vent-specific emission factor, EF_{PV-C}, for the process vent, measured after the destruction device (kg fluorinated GHG emitted per kg activity) (Equation L–21).

(6) The site-specific, process-vent-specific emission calculation factor, ECF_{PV-U}, for the process vent, for periods not vented to destruction device (kg fluorinated GHG emitted per kg activity) (Equations L–21, L–35).

(7) The site-specific, process-vent-specific emission factor(s), EF_{PV-U}, for the process vent, measured before the destruction device (kg fluorinated GHG emitted per kg activity) (Equations L–22, L–35).

(8) The site-specific, process-vent-specific emission calculation factor for the process vent, ECF_{PV} (kg fluorinated GHG emitted per kg of activity) (Equations L–26, L–27, L–35).

(9) Destruction efficiency, DE, of each destruction device for each fluorinated GHG whose destruction the facility reflects in § 98.123, in accordance with § 98.124(g)(1)(i) through (iv) (weight fraction) (Equations L–22, L–27, L–31).

(10) Emissions of each fluorinated GHG for equipment pieces for the process, E_{ELf} (metric ton/yr) (98.123(d)(3)).

(11) The mass of the fluorinated GHG previously produced and fed into the destruction device, RE_D, (metric tons) (Equation L–31).

(12) If applicable, the heel factor, h_{fj}, calculated for each container size and type (decimal fraction) (Equation L–34).

(13) If applicable, the number of containers of size and type j returned to the fluorinated gas production facility, N_{fj}, (Equation L–34).

(14) If applicable, the full capacity of containers of size and type j containing fluorinated GHG f, F_{fj}, (metric tons) (Equation L–34).

(15) For fluorinated GHGs that do not have a chemical-specific GWP on Table A–1 of subpart A of this part, the fluorinated GHG group of which the fluorinated GHG is a member, as applicable (to permit look-up of global warming potential, GWP_f, or GWP_i, for that fluorinated GHG in Table A–1 of subpart A of this part (Equation A–1 of subpart A of this part, Equation L–35)).

■ 8. Section 98.128 is amended by adding, in alphabetical order, definitions for ''Fluorinated gas product,'' ''Generically-identified process,'' and ''Major fluorinated GHG constituent'' to read as follows:

§ 98.128 Definitions.

* * * * *

Fluorinated gas product means the product of the process, including isolated intermediates.

* * * * *

Generically-identified process means a process that is:

(1) Identified as a production process, a transformation process where no fluorinated GHG reactant is produced at another facility, or a transformation process where one or more fluorinated GHG reactants are produced at another facility;

(2) Further identified as a reaction, distillation, or packaging process, or a combination thereof; and

(3) Tagged with a discrete identifier, such as a letter or number, that remains constant from year to year.

* * * * *

Major fluorinated GHG constituent means a fluorinated GHG constituent of a fluorinated gas product that occurs in concentrations greater than 1 percent by mass.

* * * * *

■ 9. Add table L–1 to subpart L to read as follows:

TABLE L–1 OF SUBPART L OF PART 98—RANGES OF EFFECTIVE DESTRUCTION EFFICIENCY

Range of Reductions
≥99%.
≥95% to <99%.
≥75% to <95%.
≥0% to <75%.

■ 10. Add Appendix A to subpart L to read as follows:

Appendix A to Subpart L of Part 98—Mass Balance Method for Fluorinated Gas Production

1. *Mass Balance Method for § 98.123(b).* [Note: Numbering convention here matches original rule text, 75 FR 74774, December 1, 2010.]

(b) *Mass balance method.* Before using the mass balance approach to estimate your fluorinated GHG emissions from a process, you must ensure that the process and the equipment and methods used to measure it meet either the error limits described in this paragraph and calculated under paragraph (b)(1) of this section or the requirements specified in paragraph § 98.124(b)(8). If you choose to calculate the error limits, you must estimate the absolute and relative errors associated with using the mass balance approach on that process using Equations L–1 through L–4 of this section in conjunction with Equations L–5 through L–10 of this section. You may use the mass-balance approach to estimate emissions from the process if this calculation results in an absolute error of less than or equal to 3,000 metric tons CO_2e per year or a relative error of less than or equal to 30 percent of the

estimated CO_2e fluorinated GHG emissions. If you do not meet either of the error limits or the requirements of paragraph § 98.124(b)(8), you must use the emission factor approach detailed in paragraphs (c), (d), and (e) of this section to estimate emissions from the process.

(1) *Error calculation.* To perform the calculation, you must first calculate the absolute and relative errors associated with the quantities calculated using either Equations L–7 through L–10 of this section or Equation L–17 of this section. Alternatively, you may estimate these errors based on the variability of previous process measurements (*e.g.,* the variability of measurements of stream concentrations), provided these measurements are representative of the current process and current measurement devices and techniques. Once errors have been calculated for the quantities in these equations, those errors must be used to calculate the errors in Equations L–6 and L–5 of this section. You may ignore the errors associated with Equations L–11, L–12, and L–13 of this section.

(i) Where the measured quantity is a mass, the error in the mass must be equated to the accuracy or precision (whichever is larger) of the flowmeter, scale, or combination of volumetric and density measurements at the flow rate or mass measured.

(ii) Where the measured quantity is a concentration of a stream component, the error of the concentration must be equated to the accuracy or precision (whichever is larger) with which you estimate the mean concentration of that stream component, accounting for the variability of the process, the frequency of the measurements, and the accuracy or precision (whichever is larger) of the analytical technique used to measure the concentration at the concentration measured. If the variability of process measurements is used to estimate the error, this variability shall be assumed to account both for the variability of the process and the precision of the analytical technique. Use standard statistical techniques such as the student's t distribution to estimate the error of the mean of the concentration measurements as a function of process variability and frequency of measurement.

(iii) Equation L–1 of this section provides the general formula for calculating the absolute errors of sums and differences where the sum, S, is the summation of variables measured, a, b, c, etc. (*e.g.,* S = a + b + c):

$$e_{SA} = \left[(a * e_a)^2 + (b * e_b)^2 + (c * e_c)^2\right]^{1/2} \quad \text{(Eq. L-1)}$$

Where:

e_{SA} = Absolute error of the sum, expressed as one half of a 95 percent confidence interval.

e_a = Relative error of a, expressed as one half of a 95 percent confidence interval.

e_b = Relative error of b, expressed as one half of a 95 percent confidence interval.

e_c = Relative error of c, expressed as one half of a 95 percent confidence interval.

(iv) Equation L–2 of this section provides the general formula for calculating the relative errors of sums and differences:

$$e_{SR} = \frac{e_{SA}}{(a+b+c)} \quad \text{(Eq. L-2)}$$

Where:

e_{SR} = Relative error of the sum, expressed as one half of a 95 percent confidence interval.

e_{SA} = Absolute error of the sum, expressed as one half of a 95 percent confidence interval.

a+b+c = Sum of the variables measured.

(v) Equation L–3 of this section provides the general formula for calculating the absolute errors of products (*e.g.,* flow rates of GHGs calculated as the product of the flow rate of the stream and the concentration of the GHG in the stream), where the product, P, is the result of multiplying the variables measured, a, b, c, etc. (*e.g.,* P = a*b*c):

$$e_{PA} = (a * b * c)\left(e_a^2 + e_b^2 + e_c^2\right)^{1/2} \quad \text{(Eq. L-3)}$$

Where:

e_{PA} = Absolute error of the product, expressed as one half of a 95 percent confidence interval.

e_a = Relative error of a, expressed as one half of a 95 percent confidence interval.

e_b = Relative error of b, expressed as one half of a 95 percent confidence interval.

e_c = Relative error of c, expressed as one half of a 95 percent confidence interval.

(vi) Equation L–4 of this section provides the general formula for calculating the relative errors of products:

$$e_{PR} = \frac{e_{PA}}{(a * b * c)} \quad \text{(Eq. L-4)}$$

Where:

e_{PR} = Relative error of the product, expressed as one half of a 95 percent confidence interval.

e_{PA} = Absolute error of the product, expressed as one half of a 95 percent confidence interval.

a*b*c = Product of the variables measured.

(vii) Calculate the absolute error of the emissions estimate in terms of CO_2e by performing a preliminary estimate of the annual CO_2e emissions of the process using the method in paragraph (b)(1)(viii) of this section. Multiply this result by the relative error calculated for the mass of fluorine emitted from the process in Equation L–6 of this section.

(viii) To estimate the annual CO_2e emissions of the process for use in the error estimate, apply the methods set forth in paragraphs (b)(2) through (7) and (b)(9) through (16) of this section to representative process measurements. If these process measurements represent less than one year of typical process activity, adjust the estimated emissions to account for one year of typical process activity. To estimate the terms FER_d, FEP, and FEB_k for use in the error estimate for Equations L–11, L–12, and L–13 of this section, you must either use emission testing, monitoring of emitted streams, and/or engineering calculations or assessments, or in the alternative assume that all fluorine is emitted in the form of the fluorinated GHG that has the highest GWP among the

fluorinated GHGs that occur in more than trace concentrations in the process. To convert the fluorinated GHG emissions to CO_2e, use Equation A–1 of § 98.2. For fluorinated GHGs whose GWPs are not listed in Table A–1 to subpart A of this part, use a default GWP of 2,000.

(2) The total mass of each fluorinated GHG emitted annually from each fluorinated gas production and each fluorinated GHG transformation process must be estimated by using Equation L–5 of this section.

$$E_{FGHGf} = \sum_{p=1}^{n} (E_{Rp-FGHGf} + E_{Pp-FGHGf} + E_{Bp-FGHGf}) \quad \text{(Eq. L-5)}$$

Where:

E_{FGHGf} = Total mass of each fluorinated GHG f emitted annually from production or transformation process i (metric tons).

$E_{Rp-FGHGf}$ = Total mass of fluorinated GHG reactant f emitted from production process i over the period p (metric tons, calculated in Equation L–11 of this section).

$E_{Pp-FGHGf}$ = Total mass of the fluorinated GHG product f emitted from production process i over the period p (metric tons, calculated in Equation L–12 of this section).

$E_{Bp-FGHGf}$ = Total mass of fluorinated GHG by-product f emitted from production process i over the period p (metric tons, calculated in Equation L–13 of this section).

n = Number of concentration and flow measurement periods for the year.

(3) The total mass of fluorine emitted from process i over the period p must be estimated at least monthly by calculating the difference between the total mass of fluorine in the reactant(s) (or inputs, for processes that do not involve a chemical reaction) and the total mass of fluorine in the product (or outputs, for processes that do not involve a chemical reaction), accounting for the total mass of fluorine in any destroyed or recaptured streams that contain reactants, products, or by-products (or inputs or outputs). This calculation must be performed using Equation L–6 of this section. An element other than fluorine may be used in the mass-balance equation, provided the element occurs in all of the fluorinated GHGs fed into or generated by the process. In this case, the mass fractions of the element in the reactants, products, and by-products must be calculated as appropriate for that element.

$$E_F = \sum_{1}^{v} (R_d * MFF_{Rd}) - P * MFF_P - F_D \quad \text{(Eq. L-6)}$$

Where:

E_F = Total mass of fluorine emitted from process i over the period p (metric tons).

R_d = Total mass of the fluorine-containing reactant d that is fed into process i over the period p (metric tons).

P = Total mass of the fluorine-containing product produced by process i over the period p (metric tons).

MFF_{Rd} = Mass fraction of fluorine in reactant d, calculated in Equation L–14 of this section.

MFF_P = Mass fraction of fluorine in the product, calculated in Equation L–15 of this section.

F_D = Total mass of fluorine in destroyed or recaptured streams from process i containing fluorine-containing reactants, products, and by-products over the period p, calculated in Equation L–7 of this section.

v = Number of fluorine-containing reactants fed into process i.

(4) The mass of total fluorine in destroyed or recaptured streams containing fluorine-containing reactants, products, and by-products must be estimated at least monthly using Equation L–7 of this section unless you use the alternative approach provided in paragraph (b)(15) of this section.

$$F_D = \sum_{j=1}^{q} P_j * MFF_P + \sum_{k=1}^{u} \left[\left(\sum_{j=1}^{q} B_{kj} + \sum_{l=1}^{x} B_{kl} \right) * MFF_{Bk} \right] + \sum_{d=1}^{v} \left(\sum_{j=1}^{q} R_{dj} * MFF_{Rd} \right) \quad \text{(Eq. L-7)}$$

Where:

F_D = Total mass of fluorine in destroyed or recaptured streams from process i containing fluorine-containing reactants, products, and by-products over the period p.

P_j = Mass of the fluorine-containing product removed from process i in stream j and destroyed over the period p (calculated in Equation L–8 or L–9 of this section).

B_{kj} = Mass of fluorine-containing by-product k removed from process i in stream j and destroyed over the period p (calculated in Equation L–8 or L–9 of this section).

B_{kl} = Mass of fluorine-containing by-product k removed from process i in stream l and recaptured over the period p.

R_{dj} = Mass of fluorine-containing reactant d removed from process i in stream j and destroyed over the period p (calculated in Equation L–8 or L–9 of this section).

MFF_{Rd} = Mass fraction of fluorine in reactant d, calculated in Equation L–14 of this section.

MFF_P = Mass fraction of fluorine in the product, calculated in Equation L–15 of this section.

MFF_{Bk} = Mass fraction of fluorine in by-product k, calculated in Equation L–16 of this section.

q = Number of streams destroyed in process i.

x = Number of streams recaptured in process i.

u = Number of fluorine-containing by-products generated in process i.

v = Number of fluorine-containing reactants fed into process i.

(5) The mass of each fluorinated GHG removed from process i in stream j and destroyed over the period p (*i.e.,* P_j, B_{kj}, or R_{dj}, as applicable) must be estimated by applying the destruction efficiency (DE) of the device that has been demonstrated for the fluorinated GHG f to fluorinated GHG f using Equation L–8 of this section:

$$M_{FGHGfj} = DE_{FGHGf} * c_{FGHGfj} * S_j \quad \text{(Eq. L-8)}$$

Where:

M_{FGHGfj} = Mass of fluorinated GHG f removed from process i in stream j and destroyed over the period p. (This may be P_j, B_{kj}, or R_{dj}, as applicable.)

DE_{FGHGf} = Destruction efficiency of the device that has been demonstrated for fluorinated GHG f in stream j (fraction).

C_{FGHGfj} = Concentration (mass fraction) of fluorinated GHG f in stream j removed from process i and fed into the destruction device over the period p. If this concentration is only a trace concentration, $c_{F-GHGfj}$ is equal to zero.

S_j = Mass removed in stream j from process i and fed into the destruction device over the period p (metric tons).

(6) The mass of each fluorine-containing compound that is not a fluorinated GHG and that is removed from process i in stream j and destroyed over the period p (*i.e.,* P_j, B_{kj}, or R_{dj}, as applicable) must be estimated using Equation L–9 of this section.

$$M_{FCgj} = c_{FCgj} * S_j \qquad \text{(Eq. L-9)}$$

Where:

M_{FCgj} = Mass of non-GHG fluorine-containing compound g removed from process i in stream j and destroyed over the period p. (This may be P_j, B_{kj}, or R_{dj}, as applicable).

c_{FCgj} = Concentration (mass fraction) of non-GHG fluorine-containing compound g in stream j removed from process i and fed into the destruction device over the period p. If this concentration is only a trace concentration, c_{FCgj} is equal to zero.

S_j = Mass removed in stream j from process i and fed into the destruction device over the period p (metric tons).

(7) The mass of fluorine-containing by-product k removed from process i in stream l and recaptured over the period p must be estimated using Equation L–10 of this section:

$$B_{kl} = c_{Bkl} * S_l \qquad \text{(Eq. L-10)}$$

Where:

B_{kl} = Mass of fluorine-containing by-product k removed from process i in stream l and recaptured over the period p (metric tons).

c_{Bkl} = Concentration (mass fraction) of fluorine-containing by-product k in stream l removed from process i and recaptured over the period p. If this concentration is only a trace concentration, c_{Bkl} is equal to zero.

S_l = Mass removed in stream l from process i and recaptured over the period p (metric tons).

(8) To estimate the terms FER_d, FEP, and FEB_k for Equations L–11, L–12, and L–13 of this section, you must assume that the total mass of fluorine emitted, E_F, estimated in Equation L–6 of this section, occurs in the form of the fluorinated GHG that has the highest GWP among the fluorinated GHGs that occur in more than trace concentrations in the process unless you possess emission characterization measurements showing otherwise. These emission characterization measurements must meet the requirements in paragraph (8)(i), (ii), or (iii) of this section, as appropriate. The sum of the terms must equal 1. You must document the data and calculations that are used to speciate individual compounds and to estimate FER_d, FEP, and FEB_k. Exclude from your calculations the fluorine included in F_D. For example, exclude fluorine-containing compounds that are not fluorinated GHGs and that result from the destruction of fluorinated GHGs by any destruction devices (*e.g.,* the mass of HF created by combustion of an HFC). However, include emissions of fluorinated GHGs that survive the destruction process.

(i) If the calculations under paragraph (b)(1)(viii) of this section, or any subsequent measurements and calculations under this subpart, indicate that the process emits 25,000 metric tons CO_2e or more, estimate the emissions from each process vent, considering controls, using the methods in § 98.123(c)(1). You must characterize the emissions of any process vent that emits 25,000 metric tons CO_2e or more as specified in § 98.124(b)(4).

(ii) For other vents, including vents from processes that emit less than 25,000 metric tons CO_2e, you must characterize emissions as specified in § 98.124(b)(5).

(iii) For fluorine emissions that are not accounted for by vent estimates, you must characterize emissions as specified in § 98.124(b)(6).

(9) The total mass of fluorine-containing reactant d emitted must be estimated at least monthly based on the total fluorine emitted and the fraction that consists of fluorine-containing reactants using Equation L–11 of this section. If the fluorine-containing reactant d is a non-GHG, you may assume that FER_d is zero.

$$E_{R-ip} = \frac{FER_d * E_F}{\left(\sum_{d=1}^{v} FER_d * MFF_{Rd} + FEP * MFF_P + \sum_{k=1}^{u} FEB_k * MFF_{Bk}\right)} \qquad \text{(Eq. L-11)}$$

Where:

E_{R-ip} = Total mass of fluorine-containing reactant d that is emitted from process i over the period p (metric tons).

FER_d = The fraction of the mass emitted that consists of the fluorine-containing reactant d.

E_F = Total mass of fluorine emissions from process i over the period p (metric tons), calculated in Equation L–6 of this section.

FEP = The fraction of the mass emitted that consists of the fluorine-containing product.

FEB_k = The fraction of the mass emitted that consists of fluorine-containing by-product k.

MFF_{Rd} = Mass fraction of fluorine in reactant d, calculated in Equation L–14 of this section.

MFF_P = Mass fraction of fluorine in the product, calculated in Equation L–15 of this section.

MFF_{Bk} = Mass fraction of fluorine in by-product k, calculation in Equation L–16 of this section.

u = Number of fluorine-containing by-products generated in process i.

v = Number of fluorine-containing reactants fed into process i.

(10) The total mass of fluorine-containing product emitted must be estimated at least monthly based on the total fluorine emitted and the fraction that consists of fluorine-containing products using Equation L–12 of this section. If the fluorine-containing product is a non-GHG, you may assume that FEP is zero.

$$E_{P-ip} = \frac{FEP * E_F}{\left(\sum_{d=1}^{v} FER_d * MFF_{Rd} + FEP * MFF_P + \sum_{k=1}^{u} FEB_k * MFF_{Bk}\right)} \quad \text{(Eq. L-12)}$$

Where:

$E_{P\text{-}ip}$ = Total mass of fluorine-containing product emitted from process i over the period p (metric tons).

FEP = The fraction of the mass emitted that consists of the fluorine-containing product.

E_F = Total mass of fluorine emissions from process i over the period p (metric tons), calculated in Equation L–6 of this section.

FER_d = The fraction of the mass emitted that consists of fluorine-containing reactant d.

FEB_k = The fraction of the mass emitted that consists of fluorine-containing by-product k.

MFF_{Rd} = Mass fraction of fluorine in reactant d, calculated in Equation L–14 of this section.

MFF_P = Mass fraction of fluorine in the product, calculated in Equation L–15 of this section.

MFF_{Bk} = Mass fraction of fluorine in by-product k, calculation in Equation L–16 of this section.

u = Number of fluorine-containing by-products generated in process i.

v = Number of fluorine-containing reactants fed into process i.

(11) The total mass of fluorine-containing by-product k emitted must be estimated at least monthly based on the total fluorine emitted and the fraction that consists of fluorine-containing by-products using Equation L–13 of this section. If fluorine-containing by-product k is a non-GHG, you may assume that FEB_k is zero.

$$E_{Bk-ip} = \frac{FEB_k * E_F}{\left(\sum_{1}^{v} FER_d * MFF_{Rd} + FEP * MFF_P + \sum_{k=1}^{u} FEB_k * MFF_{Bk}\right)} \quad \text{(Eq. L-13)}$$

Where:

$E_{Bk\text{-}ip}$ = Total mass of fluorine-containing by-product k emitted from process i over the period p (metric tons).

FEB_k = The fraction of the mass emitted that consists of fluorine-containing by-product k.

FER_d = The fraction of the mass emitted that consists of fluorine-containing reactant d.

FEP = The fraction of the mass emitted that consists of the fluorine-containing product.

E_F = Total mass of fluorine emissions from process i over the period p (metric tons), calculated in Equation L–6 of this section.

MFF_{Rd} = Mass fraction of fluorine in reactant d, calculated in Equation L–14 of this section.

MFF_P = Mass fraction of fluorine in the product, calculated in Equation L–15 of this section.

MFF_{Bk} = Mass fraction of fluorine in by-product k, calculation in Equation L–16 of this section.

u = Number of fluorine-containing by-products generated in process i.

v = Number of fluorine-containing reactants fed into process i.

(12) The mass fraction of fluorine in reactant d must be estimated using Equation L–14 of this section:

$$MFF_{Rd} = MF_{Rd} * \frac{AW_F}{MW_{Rd}} \quad \text{(Eq. L-14)}$$

Where:

MFF_{Rd} = Mass fraction of fluorine in reactant d (fraction).

MF_{Rd} = Moles fluorine per mole of reactant d.

AW_F = Atomic weight of fluorine.

MW_{Rd} = Molecular weight of reactant d.

(13) The mass fraction of fluorine in the product must be estimated using Equation L–15 of this section:

$$MFF_P = MF_P * \frac{AW_F}{MW_P} \quad \text{(Eq. L-15)}$$

Where:

MFF_P = Mass fraction of fluorine in the product (fraction).

MF_P = Moles fluorine per mole of product.

AW_F = Atomic weight of fluorine.

MW_P = Molecular weight of the product produced.

(14) The mass fraction of fluorine in by-product k must be estimated using Equation L–16 of this section:

$$MFF_{Bk} = MF_{Bk} * \frac{AW_F}{MW_{Bk}} \quad \text{(Eq. L-16)}$$

Where:

MFF_{Bk} = Mass fraction of fluorine in the product (fraction).

MF_{Bk} = Moles fluorine per mole of by-product k.

AW_F = Atomic weight of fluorine.

MW_{Bk} = Molecular weight of by-product k.

(15) Alternative for determining the mass of fluorine destroyed or recaptured. As an alternative to using Equation L–7 of this section as provided in paragraph (b)(4) of this section, you may estimate at least monthly the total mass of fluorine in destroyed or recaptured streams containing fluorine-containing compounds (including all fluorine-containing reactants, products, and byproducts) using Equation L–17 of this section.

$$F_D = \sum_{j=1}^{q} DE_{avgj} * c_{TFj} * S_j + \sum_{l=1}^{x} c_{TFl} * S_l \qquad \text{(Eq. L-17)}$$

Where:

F_D = Total mass of fluorine in destroyed or recaptured streams from process i containing fluorine-containing reactants, products, and by-products over the period p.

DE_{avgj} = Weighted average destruction efficiency of the destruction device for the fluorine-containing compounds identified in destroyed stream j under § 98.124(b)(4)(ii) and (5)(ii) (calculated in Equation L–18 of this section)(fraction).

c_{TFj} = Concentration (mass fraction) of total fluorine in stream j removed from process i and fed into the destruction device over the period p. If this concentration is only a trace concentration, c_{TFj} is equal to zero.

S_j = Mass removed in stream j from process i and fed into the destruction device over the period p (metric tons).

c_{TFl} = Concentration (mass fraction) of total fluorine in stream l removed from process i and recaptured over the period p. If this concentration is only a trace concentration, c_{Bkl} is equal to zero.

S_l = Mass removed in stream l from process i and recaptured over the period p.

q = Number of streams destroyed in process i.

x = Number of streams recaptured in process i.

(16) Weighted average destruction efficiency. For purposes of Equation L–17 of this section, calculate the weighted average destruction efficiency applicable to a destroyed stream using Equation L–18 of this section.

$$DE_{avgj} = \frac{\sum_{f=1}^{w} DE_{FGHGf} * c_{FGHGf} * S_j * MFF_{FGHGf} + \sum_{g=1}^{y} c_{FCg} * S_j * MFF_g}{\sum_{f=1}^{w} c_{FGHGf} * S_j * MFF_{FGHGf} + \sum_{g=1}^{y} c_{FCg} * S_j * MFF_g} \qquad \text{(Eq. L-18)}$$

Where:

DE_{avgj} = Weighted average destruction efficiency of the destruction device for the fluorine-containing compounds identified in destroyed stream j under 98.124(b)(4)(ii) or (b)(5)(ii), as appropriate.

DE_{FGHGf} = Destruction efficiency of the device that has been demonstrated for fluorinated GHG f in stream j (fraction).

c_{FGHGfj} = Concentration (mass fraction) of fluorinated GHG f in stream j removed from process i and fed into the destruction device over the period p. If this concentration is only a trace concentration, $c_{F-GHGfj}$ is equal to zero.

c_{FCgj} = Concentration (mass fraction) of non-GHG fluorine-containing compound g in stream j removed from process i and fed into the destruction device over the period p. If this concentration is only a trace concentration, c_{FCgj} is equal to zero.

S_j = Mass removed in stream j from process i and fed into the destruction device over the period p (metric tons).

MFF_{FGHGf} = Mass fraction of fluorine in fluorinated GHG f, calculated in Equation L–14, L–15, or L–16 of this section, as appropriate.

MFF_{FCg} = Mass fraction of fluorine in non-GHG fluorine-containing compound g, calculated in Equation L–14, L–15, or L–16 of this section, as appropriate.

w = Number of fluorinated GHGs in destroyed stream j.

y = Number of non-GHG fluorine-containing compounds in destroyed stream j.

2. *Mass Balance Method for § 98.124(b).* [Note: Numbering convention here matches original rule text, 75 FR 74774, December 1, 2010.]

(b) *Mass balance monitoring.* If you determine fluorinated GHG emissions from any process using the mass balance method under § 98.123(b), you must estimate the total mass of each fluorinated GHG emitted from that process at least monthly. Only streams that contain greater than trace concentrations of fluorine-containing reactants, products, or by-products must be monitored under this paragraph. If you use an element other than fluorine in the mass-balance equation pursuant to § 98.123(b)(3), substitute that element for fluorine in the monitoring requirements of this paragraph.

(1) *Mass measurements.* Measure the following masses on a monthly or more frequent basis using flowmeters, weigh scales, or a combination of volumetric and density measurements with accuracies and precisions that allow the facility to meet the error criteria in § 98.123(b)(1):

(i) Total mass of each fluorine-containing product produced. Account for any used fluorine-containing product added into the production process upstream of the output measurement as directed at §§ 98.413(b) and 98.414(b). For each product, the mass produced used for the mass-balance calculation must be the same as the mass produced that is reported under subpart OO of this part, where applicable.

(ii) Total mass of each fluorine-containing reactant fed into the process.

(iii) The mass removed from the process in each stream fed into the destruction device.

(iv) The mass removed from the process in each recaptured stream.

(2) *Concentration measurements for use with § 98.123(b)(4).* If you use § 98.123(b)(4) to estimate the mass of fluorine in destroyed or recaptured streams, measure the following concentrations at least once each calendar month during which the process is operating, on a schedule to ensure that the measurements are representative of the full range of process conditions (*e.g.,* catalyst age). Measure more frequently if this is necessary to meet the error criteria in § 98.123(b)(1). Use equipment and methods (*e.g.,* gas chromatography) that comply with paragraph (e) of this section and that have an accuracy and precision that allow the facility to meet the error criteria in § 98.123(b)(1). Only fluorine-containing reactants, products, and by-products that occur in a stream in greater than trace concentrations must be monitored under this paragraph.

(i) The concentration (mass fraction) of the fluorine-containing product in each stream that is fed into the destruction device.

(ii) The concentration (mass fraction) of each fluorine-containing by-product in each stream that is fed into the destruction device.

(iii) The concentration (mass fraction) of each fluorine-containing reactant in each stream that is fed into the destruction device.

(iv) The concentration (mass fraction) of each fluorine-containing by-product in each stream that is recaptured (c_{Bkl}).

(3) *Concentration measurements for use with § 98.123(b)(15).* If you use § 98.123(b)(15) to estimate the mass of fluorine in destroyed or recaptured streams, measure the concentrations listed in paragraphs (b)(3)(i) and (ii) of this section at least once each calendar month during which the process is operating, on a schedule to ensure that the measurements are representative of the full range of process conditions (*e.g.,* catalyst age). Measure more frequently if this is necessary to meet the error criteria in § 98.123(b)(1). Use equipment and methods (*e.g.,* gas chromatography) that comply with paragraph (e) of this section and that have an accuracy and precision that allow the facility to meet the error criteria in § 98.123(b)(1). Only fluorine-containing reactants, products, and by-products that occur in a stream in greater than trace concentrations must be monitored under this paragraph.

(i) The concentration (mass fraction) of total fluorine in each stream that is fed into the destruction device.

(ii) The concentration (mass fraction) of total fluorine in each stream that is recaptured.

(4) *Emissions characterization: process vents emitting 25,000 metric tons CO_2e or more.* To characterize emissions from any process vent emitting 25,000 metric tons CO_2e or more, comply with paragraphs (b)(4)(i) through (b)(4)(v) of this section, as appropriate. Only fluorine-containing reactants, products, and by-products that occur in a stream in greater than trace concentrations must be monitored under this paragraph.

(i) *Uncontrolled emissions.* If emissions from the process vent are not routed through a destruction device, sample and analyze emissions at the process vent or stack or sample and analyze emitted streams before the process vent. If the process has more than one operating scenario, you must either perform the emission characterization for each operating scenario or perform the emission characterization for the operating scenario that is expected to have the largest emissions and adjust the emission characterization for other scenarios using engineering calculations and assessments as specified in § 98.123(c)(4). To perform the characterization, take three samples under conditions that are representative for the operating scenario. Measure the concentration of each fluorine-containing compound in each sample. Use equipment and methods that comply with paragraph (e) of this section. Calculate the average concentration of each fluorine-containing compound across all three samples.

(ii) *Controlled emissions using § 98.123(b)(15).* If you use § 98.123(b)(15) to estimate the total mass of fluorine in destroyed or recaptured streams, and if the emissions from the process vent are routed through a destruction device, characterize emissions as specified in paragraph (b)(4)(i) of this section before the destruction device. Apply the destruction efficiency demonstrated for each fluorinated GHG in the destroyed stream to that fluorinated GHG. Exclude from the characterization fluorine-containing compounds that are not fluorinated GHGs.

(iii) *Controlled emissions using § 98.123(b)(4).* If you use § 98.123(b)(4) to estimate the mass of fluorine in destroyed or recaptured streams, and if the emissions from the process vent are routed through a destruction device, characterize the process vent's emissions monthly (or more frequently) using the monthly (or more frequent) measurements under paragraphs (b)(1)(iii) and (b)(2)(i) through (iii) of this section. Apply the destruction efficiency demonstrated for each fluorinated GHG in the destroyed stream to that fluorinated GHG. Exclude from the characterization fluorine-containing compounds that are not fluorinated GHGs.

(iv) *Emissions characterization frequency.* You must repeat emission characterizations performed under paragraph (b)(4)(i) and (ii) of this section under paragraph (b)(4)(iv)(A) or (B) of this section, whichever occurs first:

(A) *10-year revision.* Repeat the emission characterization every 10 years. In the calculations under § 98.123, apply the revised emission characterization to the process activity that occurs after the revision.

(B) *Operating scenario change that affects the emission characterization.* For planned operating scenario changes, you must estimate and compare the emission calculation factors for the changed operating scenario and for the original operating scenario whose process vent specific emission factor was measured. Use the engineering calculations and assessments specified in § 98.123(c)(4). If the share of total fluorine-containing compound emissions represented by any fluorinated GHG changes under the changed operating scenario by 15 percent or more of the total, relative to the previous operating scenario (this includes the cumulative change in the emission calculation factor since the last emissions test), you must repeat the emission characterization. Perform the emission characterization before February 28 of the year that immediately follows the change. In the calculations under § 98.123, apply the revised emission characterization to the process activity that occurs after the operating scenario change.

(v) *Subsequent measurements.* If a process vent with fluorinated GHG emissions less than 25,000 metric tons CO_2e, per § 98.123(c)(2), is later found to have fluorinated GHG emissions of 25,000 metric tons CO_2e or greater, you must perform an emission characterization under this paragraph during the following year.

(5) *Emissions characterization: Process vents emitting less than 25,000 metric tons CO_2e.* To characterize emissions from any process vent emitting less than 25,000 metric tons CO_2e, comply with paragraphs (b)(5)(i) through (iii) of this section, as appropriate. Only fluorine-containing reactants, products, and by-products that occur in a stream in greater than trace concentrations must be monitored under this paragraph.

(i) *Uncontrolled emissions.* If emissions from the process vent are not routed through a destruction device, emission measurements must consist of sampling and analysis of emissions at the process vent or stack, sampling and analysis of emitted streams before the process vent, previous test results, provided the tests are representative of current operating conditions of the process, or bench-scale or pilot-scale test data representative of the process operating conditions.

(ii) *Controlled emissions using § 98.123(b)(15).* If you use § 98.123(b)(15) to estimate the total mass of fluorine in destroyed or recaptured streams, and if the emissions from the process vent are routed through a destruction device, characterize emissions as specified in paragraph (b)(5)(i) of this section before the destruction device. Apply the destruction efficiency demonstrated for each fluorinated GHG in the destroyed stream to that fluorinated GHG. Exclude from the characterization fluorine-containing compounds that are not fluorinated GHGs.

(iii) *Controlled emissions using § 98.123(b)(4).* If you use § 98.123(b)(4) to estimate the mass of fluorine in destroyed or recaptured streams, and if the emissions from the process vent are routed through a destruction device, characterize the process vent's emissions monthly (or more frequently) using the monthly (or more frequent) measurements under paragraphs (b)(1)(iii) and (b)(2)(i) through (iii) of this section. Apply the destruction efficiency demonstrated for each fluorinated GHG in the destroyed stream to that fluorinated GHG. Exclude from the characterization fluorine-containing compounds that are not fluorinated GHGs.

(6) *Emissions characterization: Emissions not accounted for by process vent estimates.* Calculate the weighted average emission characterization across the process vents before any destruction devices. Apply the weighted average emission characterization for all the process vents to any fluorine emissions that are not accounted for by process vent estimates.

(7) *Impurities in reactants.* If any fluorine-containing impurity is fed into a process along with a reactant (or other input) in greater than trace concentrations, this impurity shall be monitored under this section and included in the calculations under § 98.123 in the same manner as reactants fed into the process, fed into the destruction device, recaptured, or emitted, except the concentration of the impurity in the mass fed into the process shall be measured, and the mass of the impurity fed into the process shall be calculated as the product of the concentration of the impurity and the mass fed into the process. The mass of the reactant fed into the process may be reduced to account for the mass of the impurity.

(8) *Alternative to error calculation.* As an alternative to calculating the relative and absolute errors associated with the estimate of emissions under § 98.123(b), you may comply with the precision, accuracy, measurement and calculation frequency, and fluorinated GHG throughput requirements of paragraph (b)(8)(i) through (iv) of this section.

(i) *Mass measurements.* Measure the masses specified in paragraph (b)(1) of this section using flowmeters, weigh scales, or a combination of volumetric and density measurements with accuracies and

precisions of ±0.2 percent of full scale or better.

(ii) *Concentration measurements.* Measure the concentrations specified in paragraph (b)(2) or (3) of this section, as applicable, using analytical methods with accuracies and precisions of ±10 percent or better.

(iii) *Measurement and calculation frequency.* Perform the mass measurements specified in paragraph (b)(1) of this section and the concentration measurements specified in paragraph (b)(2) or (3) of this section, as applicable, at least weekly, and calculate emissions at least weekly.

(iv) *Fluorinated-GHG throughput limit.* You may use the alternative to the error calculation specified in paragraph (b)(8) of this section only if the total annual CO_2-equivalent fluorinated GHG throughput of the process is 500,000 $mtCO_2e$ or less. The total throughput is the sum of the masses of the fluorinated GHG reactants, products, and by-products fed into and generated by the process. To convert these masses to CO_2e, use Equation A–1 of § 98.2. For fluorinated GHGs whose GWPs are not listed in Table A–1 to subpart A of this part, use a default GWP of 2,000.

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Part IV

The President

Proclamation 9218—National Pearl Harbor Remembrance Day, 2014

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Thursday, December 11, 2014

Presidential Documents

Title 3—

The President

Proclamation 9218 of December 5, 2014

National Pearl Harbor Remembrance Day, 2014

By the President of the United States of America

A Proclamation

On the morning of December 7, 1941, Japanese planes thundered over Hawaii, dropping bombs in an unprovoked act of war against the United States. The attack claimed the lives of more than 2,400 Americans. It nearly destroyed our Pacific Fleet, but it could not shake our resolve. While battleships smoldered in the harbor, patriots from across our country enlisted in our Armed Forces, volunteering to take up the fight for freedom and security for which their brothers and sisters made the ultimate sacrifice. On National Pearl Harbor Remembrance Day, we pay tribute to the souls lost 73 years ago, we salute those who responded with strength and courage in service of our Nation, and we renew our dedication to the ideals for which they so valiantly fought.

In the face of great tragedy at Pearl Harbor—our first battle of the Second World War—our Union rallied together, driven by the resilient and unyielding American spirit that defines us. The millions of Americans who signed up and shipped out inspired our Nation and put us on the path to victory in the fight against injustice and oppression around the globe. As they stormed the beaches of Normandy and planted our flag in the sands of Iwo Jima, our brave service members rolled back the tide of tyranny in Europe and throughout the Pacific theater. Because of their actions, nations that once knew only the blinders of fear saw the dawn of liberty.

The men and women of the Greatest Generation went to war and braved hardships to make the world safer, freer, and more just. As we reflect on the lives lost at Pearl Harbor, we remember why America gave so much for the survival of liberty in the war that followed that infamous day. Today, with solemn gratitude, we recall the sacrifice of all who served during World War II, especially those who gave their last full measure of devotion and the families they left behind. As proud heirs to the freedom and progress secured by those who came before us, we pledge to uphold their legacy and honor their memory.

The Congress, by Public Law 103–308, as amended, has designated December 7 of each year as ''National Pearl Harbor Remembrance Day.''

NOW, THEREFORE, I, BARACK OBAMA, President of the United States of America, do hereby proclaim December 7, 2014, as National Pearl Harbor Remembrance Day. I encourage all Americans to observe this solemn day of remembrance and to honor our military, past and present, with appropriate ceremonies and activities. I urge all Federal agencies and interested organizations, groups, and individuals to fly the flag of the United States at half-staff this December 7 in honor of those American patriots who died as a result of their service at Pearl Harbor.

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

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