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NUCLEAR REGULATORY COMMISSION

10 CFR Part 70

[NRC–2010–0271]

RIN 3150–AJ34

Domestic Licensing of Special Nuclear Material Written Reports and Clarifying Amendments

AGENCY: Nuclear Regulatory Commission.

ACTION: Direct final rule; confirmation of effective date.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is confirming the effective date of January 26, 2015, for the direct final rule that was published in the **Federal Register** on September 26, 2014. This direct final rule amended regulations related to reportable safety events involving special nuclear material. This rule increases the time licensees are allowed to submit a written follow-up report from within 30 days to within 60 days after the initial report of an event, updates the reporting framework for certain situations, and removes redundant reporting requirements.

DATES: The effective date of January 26, 2015, for the direct final rule published September 26, 2014 (79 FR 57721), is confirmed.

ADDRESSES: Please refer to Docket ID NRC–2010–0271 when contacting the NRC about the availability of information for this action. You may access 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–2010–0271. 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 Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html*. To begin the search, select ''*ADAMS Public Documents*'' and then select ''Begin Web-based ADAMS Search.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov*. The ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that it is mentioned in the **SUPPLEMENTARY INFORMATION** section.
- NRC's PDR: You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: Keith McDaniel, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone: 301–415–5252, email: *Keith.McDaniel@nrc.gov*.

SUPPLEMENTARY INFORMATION:

I. Discussion

On September 26, 2014 (79 FR 57721), the NRC published a direct final rule amending its regulations in part 70 of Title 10 of the *Code of Federal Regulations* (10 CFR) to increase the time licensees are allowed to submit a written follow-up report from within 30 days to within 60 days after the initial report of an event, update the reporting framework for certain situations, and remove redundant reporting requirements. These amendments affect a licensee or an applicant that is, or plans to be, authorized to possess greater than a critical mass of special nuclear material.

II. Public Comments on the Companion Proposed Rule

A companion proposed rule was also published in the **Federal Register** on September 26, 2014 (79 FR 57840) which provided an opportunity for public comment. In the direct final rule, the NRC stated that if no significant adverse comments were received, the direct final rule would become effective on January 26, 2015. The substantive changes being made in this rulemaking are to reporting provisions in 10 CFR 70.74 and Appendix A to part 70. These changes increase the time—from 30 to 60 days—that licensees subject to part 70, Subpart H (*Additional Requirements for Certain Licensees Authorized to Possess a Critical Mass of Special Nuclear Material*) will have to submit a written follow-up report after the initial report of certain significant events to the NRC Operations Center.

The NRC received one public comment (ADAMS Accession No. ML14296A322). The commenter agrees with the proposed changes, but the commenter requested that the NRC also revise a 10 CFR 70.50 reporting provision that is within part 70, Subpart G (*Special Nuclear Material Control, Records, Reports and Inspections*). The commenter wants licensees subject to Subpart G to also be given 60 rather than 30 days to submit a written follow-up report.

The comment letter does not warrant the withdrawal of the direct final rule. The direct final rule is of limited scope, and arose from PRM–70–8 (ADAMS Accession No. ML091110449, dated April 16, 2009, filed by the Nuclear Energy Institute) that did not seek changes to 10 CFR 70.50. The commenter has not provided a sufficient basis to expand the direct final rule's scope to include revising the 30-day reporting requirement in 10 CFR 70.50, and the NRC does not agree with the commenter's claim that his proposal meets the criteria for being a significant adverse comment. Therefore, this rule will become effective as scheduled.

Dated at Rockville, Maryland, this 29th day of December, 2014.

For the Nuclear Regulatory Commission.

Carol Gallagher,

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

[FR Doc. 2014–30865 Filed 1–2–15; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF ENERGY

10 CFR Part 429

[Docket No. EERE–2011–BT–TP–0024]

RIN 1904–AC46

Energy Conservation Program: Alternative Efficiency Determination Methods and Compliance for Commercial HVAC, Refrigeration, and Water Heating Equipment

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

ACTION: Final rule.

SUMMARY: The U.S. Department of Energy (DOE) is revising its regulations governing DOE verification testing of industrial equipment covered by EPCA rated with alternative efficiency determination methods (AEDMs). These regulations arose from a negotiated rulemaking effort on issues regarding the certification of commercial heating, ventilating, air-conditioning (HVAC), water heating (WH), and refrigeration equipment.

DATES: *Effective:* February 4, 2015.

ADDRESSES: This rulemaking can be identified by docket number EERE–2011–BT–TP–0024 and/or RIN 1904–AC46.

Docket: The docket is available for review at *www.regulations.gov,* including **Federal Register** notices, 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.

FOR FURTHER INFORMATION CONTACT: Ms. Ashley Armstrong, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Office, EE–2J, 1000 Independence Avenue SW., Washington, DC 20585–0121. Email: *Ashley.Armstrong@ee.doe.gov;* and Ms. Laura Barhydt, U.S. Department of Energy, Office of the General Counsel, Forrestal Building, GC–32, 1000 Independence Avenue SW., Washington, DC 20585. Email: *Laura.Barhydt@hq.doe.gov.*

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IV. Approval of the Office of the Secretary

I. Authority and Background

Authority

Title III of the Energy Policy and Conservation Act of 1975, as amended (''EPCA'' or, in context, ''the Act'') sets forth a variety of provisions designed to improve energy efficiency. Part A of Title III (42 U.S.C. 6291–6309) provides for the Energy Conservation Program for Consumer Products Other Than Automobiles. The National Energy Conservation Policy Act (NECPA), Pub. L. 95–619, amended EPCA to add Part A–1 of Title III, which established an energy conservation program for certain industrial equipment. (42 U.S.C. 6311–6317) [1] The Department of Energy (''DOE'') is charged with implementing these provisions.

Under EPCA, this program consists essentially of four parts: (1) Testing; (2) labeling; (3) Federal energy conservation standards; and (4) certification and enforcement procedures. The Federal Trade Commission (FTC) is primarily responsible for the labeling of consumer products and DOE implements the remainder of the program. The testing requirements consist of test procedures that manufacturers of covered products and equipment must use (1) as the basis for certifying to DOE that their products comply with the applicable energy conservation standards adopted under EPCA, and (2) for making representations about the efficiency of those products and equipment. Similarly, DOE must use these test requirements to determine whether the products comply with any relevant standards promulgated under EPCA. For certain consumer products and industrial equipment, DOE's existing testing regulations allow the use of an alternative efficiency determination method (AEDM) or an alternative rating method (ARM), in lieu of actual testing, to simulate the energy consumption or efficiency of certain basic models of covered products under DOE's test procedure conditions.

In addition, EPCA (through 42 U.S.C. 6299–6305 and 6316) authorizes DOE to enforce compliance with the energy and water conservation standards (all non-product specific references herein referring to energy use and consumption include water use and consumption; all references to energy efficiency include water efficiency) established for certain consumer products and industrial equipment. (42 U.S.C. 6299–6305 (consumer products), 6316 (industrial equipment)) DOE has promulgated enforcement regulations that include specific certification and compliance requirements. See 10 CFR part 429; 10 CFR part 431, subparts B, U, and V.

Background

On February 26, 2013, members of the Appliance Standards and Rulemaking Federal Advisory Committee (ASRAC) unanimously decided to form a working group to engage in a negotiated rulemaking effort on the certification of the compliance of commercial HVAC, WH, and refrigeration equipment. A notice of intent to form the Commercial Certification Working Group (''the Working Group'') was published in the **Federal Register** on March 12, 2013, to which DOE received 35 nominations. 78 FR 15653. On April 16, 2013, DOE published a notice of open meeting that announced the first meeting and listed the 22 nominated individuals (and their affiliations) who were selected to serve as members of the Working Group, in addition to two members from ASRAC, and one DOE representative. 78 FR 22431. The members of the Working Group were selected to ensure a broad and balanced array of stakeholder interests and expertise, and included efficiency advocates, manufacturers, a utility representative, and third-party laboratory representatives.

During the Working Group's first meeting, Working Group members voted to expand the scope of the negotiated rulemaking efforts to include developing methods of estimating equipment performance based on AEDM simulations. AEDMs are computer modeling or mathematical tools that predict the performance of non-tested basic models. They are derived from mathematical and engineering principles that govern the energy efficiency and energy consumption characteristics of a type of covered

[1] For editorial reasons, Parts B (consumer products) and C (commercial equipment) of Title III of EPCA were re-designated as parts A and A–1, respectively, in the United States Code.

equipment. AEDMs, when properly developed, can provide a relatively straight-forward and reasonably accurate means to predict the energy usage or efficiency characteristics of a basic model of a given covered product or equipment and reduce the burden and cost associated with testing. Where authorized by regulation, AEDMs enable manufacturers to rate and certify the compliance of their basic models by using the projected energy use or energy efficiency results derived from these simulation models in lieu of testing.

The Working Group discussed the particular elements that the AEDM simulations should address for each equipment type and other related considerations, including validation requirements for AEDMs, DOE verification of models rated with an AEDM, and the consequences for misuse of the AEDM construct. As required, the Working Group submitted an interim report to ASRAC on June 26, 2013, summarizing the group's recommendations regarding AEDMs for commercial HVAC, WH, and refrigeration equipment. The interim report to ASRAC can be found at *http://www.regulations.gov/#!documentDetail;D=EERE-2013-BT-NOC-0023-0046.* ASRAC subsequently voted unanimously to approve the recommendations in the interim report for AEDMs.

On October 22, 2013, DOE published in the **Federal Register** a Supplemental Notice of Proposed Rulemaking (''the October 2013 AEDM SNOPR'') regarding alternative efficiency determination methods, basic model definitions, and certification compliance dates for commercial HVAC, refrigeration, and WH equipment. 78 FR 62472. The October 2013 AEDM SNOPR also proposed a process for DOE to conduct verification testing to ensure that models rated with an AEDM perform to their certified ratings. As part of the verification testing process, the Working Group recommended that a manufacturer may elect to have a DOE representative and a manufacturer's representative on site for the initial test of up to 10 percent of the basic models that they have rated with an AEDM. DOE adopted most of the provisions from the October 2013 AEDM SNOPR in a December 31, 2013 final rule (''the December 2013 final rule''). 78 FR 79579. However, commenters raised concerns over DOE's proposal allowing manufacturers to witness verification tests. In reviewing their comments, DOE determined that its proposed regulatory text, which was based in large part on the Working Group's recommendation, may not have been sufficiently clear. As a result, DOE published a Supplemental Notice of Proposed Rulemaking (''the September 2014 SNOPR'') clarifying the process for witnessing the test set-up as part of the AEDM verification process. The Department's intent was to establish a clear process while ensuring that the regulatory text reflects the recommendations of the Working Group. 79 FR 57842 (September 26, 2014).

The final rule adopts the approach proposed in the September 2014 SNOPR.

II. Discussion of Specific Revisions to DOE's Regulations for Alternative Efficiency Determination Methods Verification Testing

As described in the background section of this notice, DOE proposed clarifications regarding witnessing the verification test set-up for models rated with an AEDM. See 79 FR 57842. DOE received three comments in response—two from manufacturers and one from a trade association. These comments are discussed in more detail below, and a full set of comments can be found at: *http://www.regulations.gov/#!docketDetail;D=EERE-2011-BT-TP-0024.*

TABLE II–1—STAKEHOLDERS THAT SUBMITTED COMMENTS TO THE SNOPR

Name	Acronym	Organization type
Air-Conditioning, Heating, and Refrigeration Institute	AHRI	Trade Association.
Continental Refrigerator	Continental	Manufacturer.
Hussmann Corporation	Hussmann	Manufacturer.

Manufacturer Presence During Verification Testing

DOE proposed regulatory text to state explicitly that manufacturers may elect to witness the test set-up of verification tests. DOE proposed this clarification to better align the regulatory text with the Working Group's recommendation on this issue. See 79 FR at 57845.

Continental suggested that, given its own problematic experiences with third-party testing, DOE should allow manufacturers the option to be present for the duration of any verification test to ensure that no issues requiring additional manufacturer input arise. (Continental, No. 0111 at p.1) Continental went on to state that they understand and concur with DOE's decision to only allow manufacturers to be present for the test setup, given manufacturer's ability to review the test data, calculations and final results. (Id.)

DOE's proposed approach to verification testing uses a number of different steps to help ensure that commercial HVAC, WH, and refrigeration equipment is tested correctly. First, the proposal would allow manufacturers to witness the set-up for AEDM verification testing for a selection of basic models rated with an AEDM. Second, if a lab encounters an issue during a verification test and requires additional information to test in accordance with the applicable DOE test procedure, under already existing regulations, DOE may coordinate a meeting between the manufacturer and the test facility to resolve that issue. See 10 CFR 429.70(c)(5)(iv)(E). Third, if a model performs worse than its certified rating during testing, DOE also already provides the manufacturer with the test report, and manufacturers may present any claims that the test was performed incorrectly. See 10 CFR 429.70(c)(5)(v). In light of these pre-existing provisions, expanding the witness testing provisions beyond the Working Group's recommendation to allow manufacturers to witness the set-up of the test is unnecessary. Consequently, consistent with the Working Group's recommendation, DOE is adopting regulatory text that allows manufacturers to elect to witness the test set-up for a basic model. That election would be made as part of that basic model's certification report.

10 Percent Witness Testing Limitation

In the September 2014 SNOPR, DOE proposed to maintain that a manufacturer may select up to 10 percent of its certified basic models rated with an AEDM to witness the set-up of any verification test performed by DOE. DOE remarked that this threshold was negotiated through detailed discussions with the Working Group, who collectively concluded that this level would be acceptable to both industry and efficiency advocates while not being overly burdensome for DOE to

administer. DOE noted that manufacturers were not required to select 10 percent of eligible basic models and that manufacturers could decline to attend the test set-up when notified. DOE also noted that the 10 percent was a limit on how many basic models a manufacturer might pre-select for witnessing test set-up; it was not an indication that DOE would test 10 percent of that manufacturer's basic models. 79 FR at 57846.

Hussmann expressed little confidence that a third-party laboratory can properly set-up and test a remote supermarket case because third-party laboratories do not understand the issues to look for prior to and during an actual test—issues like discharge temperature and air flow. Hussmann recommended that remote supermarket case manufacturers should be allowed to be present at all test set-ups (rather than simply 10 percent) and data collection periods (rather than just set-up) until the third-party laboratories have established thorough knowledge of how to prepare a remote supermarket case to be tested. (Hussmann, No. 0110 at pp. 1–2) Hussmann provided no substantiating data or other information for its assertions.

While DOE acknowledges manufacturer concerns that their equipment is tested properly, DOE disagrees that supermarket case manufacturers (along with other commercial refrigeration equipment manufacturers who will be similarly affected by this provision) should be allowed to witness the set-up and data collection of all remote condensing commercial refrigerator and freezer verification tests. The Department reiterates its position from the Working Group negotiation meetings that third-party test facilities should have sufficient expertise in conducting the relevant test and that DOE's test procedures should be written in a manner that allows the test facility to administer the test procedure without DOE's or a manufacturer's supervision. ([Docket No. EERE–2013–BT–NOC–0023], Department of Energy, Public Meeting Transcript, No. 0041 pp. 34 and 36)

Moreover, the Working Group, which included Hussmann, unanimously voted in favor of the 10 percent approach detailed in the September 2014 NOPR. ([Docket No. EERE–2013–BT–NOC–0023], 2013–06–24 Appliance Standards and Rulemaking Federal Advisory Committee Commercial HVAC, WH, and Refrigeration Certification Working Group Alternative Efficiency Determination Methods, No. 0046 at p. 5) After reaching a consensus among the broad array of interests represented at the numerous ASRAC meetings that led to the development of this approach, DOE is highly reluctant, without further substantive and compelling data, to alter the comprehensively crafted and unanimously supported recommendation set forth by the Working Group.

Applying the 10 Percent Limit

Continental commented that it appreciated DOE's efforts to clarify the rules regarding witnessing the test set-up for up to 10 percent of the manufacturer's certified basic models rated with an AEDM. Continental sought, however, additional clarity regarding DOE's proposal in the form of additional sample scenarios to further explain DOE's approach. (Continental, No. 0111 at p. 2)

In response to Continental's request, DOE is clarifying that a manufacturer may witness the test set-up for up to 10 percent of the basic models rated with an AEDM per validation class submitted to DOE for certification. The validation classes for commercial HVAC, WH, and refrigeration equipment can be found in 10 CFR 429.70(c)(2)(iv). As an example, if a manufacturer submits for certification 100 basic models of single package vertical air conditioners rated with an AEDM and 100 basic models of package terminal air conditioners rated with an AEDM, then the manufacture may elect to witness the test set-up for up to 10 single package vertical air conditioners and 10 package terminal air conditioners because single package vertical air conditioners and package terminal air conditioners fall into separate validation classes. In contrast, if a manufacturer submits to DOE for certification 100 single package vertical air conditioners rated with an AEDM and 100 single package vertical heat pumps rated with an AEDM, then the manufacturer may elect to witness the test set-up no more than 20 basic models made up of any combination of single package vertical air conditioners and/or single package vertical heat pumps because single package vertical air conditioners and single package vertical heat pumps are part of the same validation class. The manufacturer may select any combination of models rated with an AEDM within the same validation class for witnessing the test set-up of a verification test.

Further, DOE is clarifying that if a manufacturer submits for certification fewer than 10 basic models rated with an AEDM per validation class, then the manufacturer may elect to witness the verification test set-up for one basic model from that validation class. Manufacturers that submit for certification 10 or more basic models rated with an AEDM per validation class must use the following method to determine the maximum number of basic models for which it may witness the verification test set-up. The manufacturer should first calculate 10 percent of the total number of basic models rated with an AEDM per validation class, and then truncate the resulting product. For example, if a manufacturer submits for certification 56 water source heat pump basic models rated with an AEDM, then the manufacturer may elect 5 water source heat pump basic models to witness the verification test set-up.

DOE plans to provide additional examples in a separate guidance document.

Additionally, DOE notes that if a manufacturer selects one or more individual models per basic model then DOE considers the manufacturer to have selected the entire basic model, including all individual models associated with it as a model for which the manufacturer opts to witness the verification test set-up. That basic model will count towards the total number of basic models for which the manufacturer has elected to witness the verification test set-up and is subject to the 10 percent limit.

Consistent with the above discussion, this final rule adopts regulations allowing manufacturers to witness the set-up of a selection of verification test performed by DOE. Manufacturers may select up to 10 percent of its basic models per validation class submitted to DOE for certification and rated with an AEDM.

The Department also proposed a framework to address situations where a manufacturer exceeds the 10 percent limit. See 79 FR at 57846. If the unit is obtained through retail channels, DOE will review the certification submissions from the manufacturer that were on file as of the date DOE purchased a basic model. If the unit is obtained directly from the manufacturer, DOE will review the certification submissions from the manufacturer that were on file as of the date DOE notifies the manufacturer that the basic model has been selected for testing. DOE will review the certification submissions from the manufacturer to determine if the manufacturer has chosen to be present for testing of the selected basic model. DOE will also verify that the manufacturer has not selected more than 10 percent of the manufacturer's basic models per validation class rated

with an AEDM and submitted to DOE for certification. If DOE discovers that the manufacturer has exceeded the 10 percent limit, DOE will notify the manufacturer of this fact and deny its request to be present for the testing of the selected basic model. The manufacturer must update its certification submission to ensure it has selected no more than 10 percent of its basic models per validation class rated with an AEDM to witness the test set-up for any future verification testing. See id. DOE received no comments on this aspect of the proposal and is adopting it in this final rule.

Retesting

In the September 2014 SNOPR, DOE proposed that the 10 percent requirement would apply to all of the basic models per validation class rated with an AEDM that are submitted to DOE for certification by a given manufacturer no matter how many AEDMs a manufacturer has used to develop its ratings. See id. DOE proposed that it would perform testing without a manufacturer's representative present for each basic model DOE selects for assessment testing unless either: (1) The manufacturer has elected to have the opportunity to witness the test set-up as part of its allocated 10 percent; or (2) the manufacturer requires the basic model to be started only by a factory-trained installer per the installation manual instructions. For those basic models that a manufacturer has requested to witness the initial verification test set-up, the manufacturer would be unable to request that the unit be retested. The results from this initial test would be used to make a definitive determination regarding the validity of the basic model's rating from the AEDM. For those basic models that are initially tested without the manufacturer present for test set-up, a manufacturer would be automatically eligible to request a retest for those basic models where the initial results indicate a potential rating issue (non-compliance or discrepancy with the certified rating). See id.

AHRI commented that DOE's proposal that a manufacturer forfeits any opportunity to request a retest of the basic model if the manufacturer's representative is present for the initial test set-up for any reason is too severe. AHRI added that the provision incorrectly assumes that all problems that may arise during the course of an efficiency test are related to an issue involving the set-up of the unit. AHRI agreed with this proposal insofar as it limits the manufacturer's ability to request a retest because of a set-up issue. However, if some other problem occurs during the testing which is unrelated to any set-up procedure, the manufacturer should still have the option to request a retest. AHRI suggested that the language be rewritten to state, ''If a manufacturer's representative is present for the initial test set-up for any reason, the manufacturer forfeits any opportunity to request a retest of the basic model based on a claim that the unit was set up improperly.'' (AHRI, No. 0112 at 2)

DOE disagrees with AHRI's assessment. The Working Group unanimously recommended that manufacturers who are on-site for the test set-up of a verification test would not be allowed to automatically request a retest. ([Docket No. EERE–2013–BT–NOC–0023], Department of Energy, 2013–06–24 Appliance Standards and Rulemaking Federal Advisory Committee Commercial HVAC, WH, and Refrigeration Certification Working Group Alternative Efficiency Determination Methods, No. 0046 at p. 5)] Additionally, attending the set-up of a verification test is optional. As proposed in the September 2014 SNOPR, when DOE selects a model for verification testing and the manufacturer has elected in its certification report to witness that model's testing set-up, DOE will alert the manufacturer of its testing selection. At this point, the manufacturer may decide whether to be present at the set-up of the verification test. 79 FR at 57846.

DOE also disagrees with AHRI's suggestion to allow manufacturers to automatically require the Department to retest for reasons other than improper set-up. In the case where a model fails to meet its certified rating, DOE provides the manufacturer with all documentation related to the test set-up, test conditions, and test results for the unit. At this time the manufacturer may present claims regarding the validity of the test. 10 CFR 429.70(c)(5)(v). If the manufacturer identifies problems that occurred during the test that impact the validity of the test (*e.g.*, a malfunctioning measurement device), DOE would consider the test to be invalid. DOE does not make compliance determinations based on invalid testing and would retest the sample unit to obtain valid test results. DOE does not believe that, in the absence of any problems with the conduct of the verification test, it is necessary to permit the retesting of a unit when a manufacturer has already attended the verification test's set-up. Consequently, DOE's adopted approach does not permit the retesting of a basic model under these circumstances. (In contrast, for those basic models that are initially tested without the manufacturer present for test set-up, a manufacturer would be automatically eligible to request a retest for those basic models where the initial results indicate a potential rating issue.)

DOE Notification to Manufacturers

In the September 2014 SNOPR, DOE proposed the following scenarios for notifying the manufacturer if DOE conducts AEDM verification testing on a basic model for which a manufacturer elected to witness the test set-up. If the unit is obtained through retail channels, DOE would notify the manufacturer of the basic model's selection for testing and provide the manufacturer the option to be present for test set-up once the unit has arrived at the test laboratory and is scheduled to be tested. If the manufacturer does not respond within five calendar days, the manufacturer would waive the option to be present for test set-up, and DOE would then proceed with the test set-up without a manufacturer's representative present. If DOE has obtained a unit directly from the manufacturer, DOE would provide the manufacturer with the option to be present for test set-up at the time the unit is ordered. DOE would then specify the date (not less than five calendar days) by which the manufacturer would notify DOE whether the manufacturer chooses to have a representative present. If the manufacturer does not notify DOE of its choice by the date specified, the manufacturer would waive the option to be present for test set-up. DOE would then proceed with the test set-up without a manufacturer's representative present. DOE also notes that any time a manufacturer's representative requests to be on-site for the test set-up, a DOE representative would also be present at the third-party test facility. Additionally, 10 CFR 429.70(c)(5)(iv)(A) would continue to apply prior to, during, and after the manufacturer's representative is on site; that is, the manufacturer's representative cannot communicate with a third-party test facility regarding verification testing without the DOE representative present. DOE received no comments on this aspect of the proposal and is adopting it in this final rule.

Supplemental Information

DOE proposed to amend its regulations to provide that information necessary for testing certain products (such as the override code for controls that would otherwise prevent the completion of testing in accordance with the applicable DOE test procedure) must accompany the certification

submission for a basic model of those products. DOE also proposed that failure to provide this information would preclude a manufacturer being present for testing of a basic model of its product. If, in the course of testing a selected basic model, DOE discovers that the necessary information for completing the test has not been provided, DOE will contact the manufacturer to obtain that information and complete the testing. The September 2014 SNOPR also explained that the failure to submit with a certification report equipment-specific, supplemental information necessary to operate the basic model is a prohibited act as described at 10 CFR 429.102(a)(1), subject to the maximum civil penalty described at 10 CFR 429.120. 79 FR at 57845.

AHRI commented that it did not recall any discussion by the Working Group where the failure to supply supplemental information would be considered a prohibited act. AHRI asserted that DOE's proposed approach was an inappropriate and unnecessary expansion of the scope of prohibited acts. AHRI added that, if a manufacturer does not provide supplemental information, the model will likely fail testing. AHRI also stated that, because a manufacturer cannot provide additional information at any time other than at certification, a model would fail the verification test if the manufacturer failed to provide the required information. At that point, DOE would be able to apply fully the penalties and remedies specified. (AHRI, No. 0112, at 1–2)

AHRI's comments suggest that it misunderstood the purpose of these portions of the proposal. DOE may determine a basic model's compliance with the applicable energy conservation standard only through testing of that basic model. 10 CFR 429.106 and 429.110(c)(3). AHRI appears to be commenting about situations in which it may be highly desirable for a manufacturer to provide testing instructions because the basic model is not likely to pass verification testing without those instructions. DOE's proposal addressed a problem wherein DOE cannot test—it is impossible to test—a basic model without additional testing information. For example, DOE has found that certain PTACs require special codes to be entered to make the unit perform under test conditions; without those codes, the unit will not perform at test conditions and DOE cannot obtain a valid test. In such a situation, DOE proposed to contact the manufacturer, but the manufacturer would forfeit its opportunity to be present for test set-up. 79 FR at 57846

Contrary to AHRI's assertion that DOE would not consider any testing instructions not provided at certification under any circumstances, DOE explained in the September 2014 SNOPR that, if a manufacturer has not provided supplemental information required for testing, then DOE will obtain the information from the manufacturer and complete the testing. 79 FR at 57846. In addition, if for other reasons DOE is unable to test a unit, the Working Group recommended, and DOE has already codified in its regulations, that DOE may coordinate a meeting between the manufacturer and test facility to resolve any technical issues. See 10 CFR 429.70(c)(5)(iv)(E).

In this rule, DOE is requiring that, if necessary to run a valid test, the equipment-specific, supplemental information for commercial HVAC, WH, and refrigeration equipment must include any additional testing and testing set-up instructions.

DOE also proposed that, if the unit is obtained through retail channels, DOE will review the certification submissions from the manufacturer that were on file as of the date DOE purchased a basic model. If DOE has obtained a unit directly from the manufacturer, DOE will review the certification submissions from the manufacturer that were on file as of the date DOE notifies the manufacturer that the basic model has been selected for testing. At this time, DOE will determine if the manufacturer provided necessary supplemental instructions. Additionally, for the purposes of conducting the verification test DOE will use the most recent version of supplemental instructions on file as of the date DOE purchased a basic model or the date DOE notified the manufacturer of the verification testing. DOE received no comments on these proposals and is adopting them in this rule.

DOE notes that manufacturers will also need to provide the complete name of the PDF containing the supplemental testing instructions as part of the certification report. If the manufacturer changes the supplemental testing instructions and as a result changes the file name, then the manufacturer must update the certification report accordingly.

DOE notes that 10 CFR 429.102(a)(1) establishes that the failure to properly certify covered products and covered equipment in accordance with 10 CFR 429.12 and 10 CFR 429.14 through 429.54 is a prohibited act. The Working Group recommended that manufacturers of certain kinds of commercial refrigeration, HVAC, and WH equipment should be required to submit a supplemental Portable Document Format (PDF) file with additional testing information with the certification report. The Working Group specified that the supplemental information would be required for commercial refrigeration equipment and most types of commercial HVAC equipment. DOE codified these requirements in 10 CFR 429.42(b)(4) and 10 CFR 429.43(b)(4). DOE's statement in the September 2014 SNOPR regarding the consequences of failing to provide supplemental information necessary to operate the basic model information was reiterating an existing prohibited act subject to the maximum civil penalty prescribed at 10 CFR 429.120—not proposing a new provision or reflecting a change in regulations due to the Working Group's recommendations.

Private Model Numbers

DOE proposed to clarify its treatment of ''private'' model numbers under 10 CFR 429.7(b)(3). ''Private'' model numbers were created in a final rule published May 5, 2014, which adopted the recommendations of the Working Group with respect to the data elements to include in certification reports. See 79 FR 25486, 25491. These ''private'' models numbers addressed concerns raised by Working Group participants during the negotiated rulemaking indicating that the model numbers can, in certain circumstances, comprise confidential business information. The Working Group reached a consensus that, in limited circumstances, manufacturers should be able to identify when disclosure of an individual model number would reveal confidential business information and that DOE should treat that information as confidential in those specific instances. DOE has discovered, however, that, as drafted, the language at 10 CFR 429.7 may permit a much broader range of model numbers to be identified as ''private'' than had been intended, which would result in fewer identified models in DOE's public Compliance Certification Database. Specifically, the current language could be interpreted to permit a manufacturer to mark as ''private'' any model number that is not available in public marketing materials. Accordingly, DOE proposed to revise the regulatory text to better reflect the negotiated position of the working group. DOE received no comments on this aspect of the proposal and is adopting it in this final rule.

Variable Refrigerant Flow Systems

DOE also clarified in its September 2014 SNOPR that variable refrigerant flow system assessment and enforcement testing is governed by 10 CFR 431.96(f), and would not be subject to any of the proposed requirements. 79 FR at 57845. DOE received no comments on this aspect of the proposal and is adopting this approach in the final rule.

Certification Templates

Finally, Continental urged DOE to publish the product templates for certifying commercial refrigeration equipment—specifically, for equipment with either single compartment or multiple compartments—on the Compliance Certification Management System Web page as quickly as possible. Continental believes a minimum of 90 calendar days should have been allowed for manufacturers to complete their certifications. (Continental, No. 0111 at p. 2) The CRE certification templates are available at: *https://www.regulations.doe.gov/ccms/templates/product_templates*.

DOE notes that it adopted the certification requirements for commercial refrigeration equipment in a final rule for which manufacturers negotiated to have over 180 days to collect the required certification information. See 79 FR 25486 (May 5, 2014). Accordingly, DOE will not provide additional time to supplement that which has already been provided.

III. Procedural Issues and Regulatory Review

A. Review Under Executive Order 12866

The Office of Management and Budget has determined that test procedure rulemakings do not constitute ''significant regulatory actions'' under section 3(f) of Executive Order 12866, Regulatory Planning and Review, 58 FR 51735 (Oct. 4, 1993). Accordingly, this action was not subject to review under the Executive Order by the Office of Information and Regulatory Affairs (OIRA) in the Office of Management and Budget (OMB).

B. Review Under the Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601, *et seq.*) requires the preparation of a regulatory flexibility analysis (RFA) for any rule that by law must be proposed for public comment, unless the agency certifies that the rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. As required by Executive Order 13272, ''Proper Consideration of Small Entities in Agency Rulemaking,'' 67 FR 53461 (August 16, 2002), DOE published procedures and policies on February 19, 2003 to ensure that the potential impacts of its rules on small entities are properly considered during the DOE rulemaking process. 68 FR 7990. DOE has made its procedures and policies available on the Office of the General Counsel's Web site: *http://www.energy.gov/sites/prod/files/gcprod/documents/eo13272.pdf*.

DOE reviewed the requirements in the Final Rule under the provisions of the Regulatory Flexibility Act and the procedures and policies published on February 19, 2003. As discussed in more detail below, DOE found that the provisions of this rule will not increase testing and/or reporting burden. Accordingly, manufacturers will not experience increased financial burden as a result of this rulemaking.

This Final Rule clarifies how DOE intends to exercise its authority to validate AEDM performance and verify the performance of commercial HVAC, WH, and refrigeration equipment certified using an AEDM. Specifically, DOE is allowing representatives of commercial HVAC, WH, and refrigeration equipment manufacturers to witness the test set-up for DOE-initiated verification testing for up to 10 percent of a manufacturer's basic models certified to DOE and that are rated with an AEDM. The selection of basic models and the decision to witness the test set-up for verification testing is at the discretion of the manufacturer. Thus, because these proposed changes would apply irrespective of a manufacturer's size and would provide these entities with added flexibility to witness the testing set-up of their equipment, DOE certifies that this rulemaking would not have a significant impact on a substantial number of small entities.

C. Review Under the Paperwork Reduction Act

Manufacturers of the covered equipment addressed in the Final Rule must certify to DOE that their equipment comply with any applicable energy conservation standards. In certifying compliance, manufacturers must test their equipment according to the applicable DOE test procedures for the given equipment type, including any amendments adopted for those test procedures, or use the appropriate AEDMs to develop the certified ratings of the basic models. DOE has established regulations for the certification and recordkeeping requirements for all covered consumer products and commercial equipment, including the equipment at issue in this rule. (79 FR 25486 (May 5, 2014)). The collection-of-information requirement for these certification and recordkeeping provisions is subject to review and approval by OMB under the Paperwork Reduction Act (PRA). This requirement has been approved by OMB under OMB Control Number 1910–1400. Public reporting burden for the certification is estimated to average 30 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

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

D. Review Under the National Environmental Policy Act

DOE has determined that this rule falls into a class of actions that are categorically excluded from review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321, *et seq.*) and DOE's implementing regulations at 10 CFR part 1021. Specifically, this rule is changing DOE's verification testing regulations so it would not affect the amount, quality or distribution of energy usage, and, therefore, would not result in any environmental impacts. Thus, this rulemaking is covered by Categorical Exclusion A6 under 10 CFR part 1021, subpart D. Accordingly, neither an environmental assessment nor an environmental impact statement is required.

E. Review Under Executive Order 13132

Executive Order 13132, ''Federalism,'' 64 FR 43255 (August 4, 1999) imposes certain requirements on agencies formulating and implementing policies or regulations that preempt State law or that have Federalism implications. The Executive Order requires agencies to examine the constitutional and statutory authority supporting any action that would limit the policymaking discretion of the States and to carefully assess the necessity for such actions. The Executive Order also requires agencies to have an accountable process to ensure meaningful and timely input by State and local officials in the development of regulatory policies that have Federalism implications. On March 14, 2000, DOE published a

statement of policy describing the intergovernmental consultation process it will follow in the development of such regulations. 65 FR 13735. DOE has examined this rulemaking and has determined that it would not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. EPCA governs and prescribes Federal preemption of State regulations as to energy conservation for the products that are the subject of this rule. States can petition DOE for exemption from such preemption to the extent, and based on criteria, set forth in EPCA. (42 U.S.C. 6297(d)) No further action is required by Executive Order 13132.

F. Review Under Executive Order 12988

Regarding the review of existing regulations and the promulgation of new regulations, section 3(a) of Executive Order 12988, ''Civil Justice Reform,'' 61 FR 4729 (Feb. 7, 1996), imposes on Federal agencies the general duty to adhere to the following requirements: (1) Eliminate drafting errors and ambiguity; (2) write regulations to minimize litigation; (3) provide a clear legal standard for affected conduct rather than a general standard; and (4) promote simplification and burden reduction. Section 3(b) of Executive Order 12988 specifically requires that Executive agencies make every reasonable effort to ensure that the regulation: (1) Clearly specifies the preemptive effect, if any; (2) clearly specifies any effect on existing Federal law or regulation; (3) provides a clear legal standard for affected conduct while promoting simplification and burden reduction; (4) specifies the retroactive effect, if any; (5) adequately defines key terms; and (6) addresses other important issues affecting clarity and general draftsmanship under any guidelines issued by the Attorney General. Section 3(c) of Executive Order 12988 requires Executive agencies to review regulations in light of applicable standards in sections 3(a) and 3(b) to determine whether they are met or it is unreasonable to meet one or more of them. DOE has completed the required review and determined that, to the extent permitted by law, this Final Rule meets the relevant standards of Executive Order 12988.

G. Review Under the Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) requires each Federal agency to assess the effects of Federal regulatory actions on State, local, and Tribal governments and the private sector. Pub. L. 104–4, sec. 201 (codified at 2 U.S.C. 1531). For a proposed regulatory action likely to result in a rule that may cause the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector of $100 million or more in any one year (adjusted annually for inflation), section 202 of UMRA requires a Federal agency to publish a written statement that estimates the resulting costs, benefits, and other effects on the national economy. (2 U.S.C. 1532(a)–(b)) The UMRA also requires a Federal agency to develop an effective process to permit timely input by elected officers of State, local, and Tribal governments on a proposed ''significant intergovernmental mandate,'' and requires an agency plan for giving notice and opportunity for timely input to potentially affected small governments before establishing any requirements that might significantly or uniquely affect small governments. On March 18, 1997, DOE published a statement of policy on its process for intergovernmental consultation under UMRA. 62 FR 12820; also available at *http://energy.gov/gc/office-general-counsel.* DOE examined this rulemaking according to UMRA and its statement of policy and determined that the rule contains neither an intergovernmental mandate, nor a mandate that may result in the expenditure of $100 million or more in any year. Accordingly, these requirements do not apply.

H. Review Under the Treasury and General Government Appropriations Act, 1999

Section 654 of the Treasury and General Government Appropriations Act, 1999 (Pub. L. 105–277) requires Federal agencies to issue a Family Policymaking Assessment for any rule that may affect family well-being. This Final Rule would not have any impact on the autonomy or integrity of the family as an institution. Accordingly, DOE has concluded that it is not necessary to prepare a Family Policymaking Assessment.

I. Review Under Executive Order 12630

DOE has determined, under Executive Order 12630, ''Governmental Actions and Interference with Constitutionally Protected Property Rights,'' 53 FR 8859 (March 18, 1988), that this regulation would not result in any takings that might require compensation under the Fifth Amendment to the U.S. Constitution.

J. Review Under the Treasury and General Government Appropriations Act, 2001

Section 515 of the Treasury and General Government Appropriations Act, 2001 (44 U.S.C. 3516 note) provides for agencies to review most disseminations of information to the public under guidelines established by each agency pursuant to general guidelines issued by OMB. OMB's guidelines were published at 67 FR 8452 (Feb. 22, 2002), and DOE's guidelines were published at 67 FR 62446 (Oct. 7, 2002). DOE has reviewed the final rule under the OMB and DOE guidelines and has concluded that it is consistent with applicable policies in those guidelines.

K. Review Under Executive Order 13211

Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use,'' 66 FR 28355 (May 22, 2001), requires Federal agencies to prepare and submit to OMB, a Statement of Energy Effects for any proposed significant energy action. A ''significant energy action'' is defined as any action by an agency that promulgated or is expected to lead to promulgation of a final rule, and that: (1) Is a significant regulatory action under Executive Order 12866, or any successor order; and (2) is likely to have a significant adverse effect on the supply, distribution, or use of energy; or (3) is designated by the Administrator of OIRA as a significant energy action. For any proposed significant energy action, the agency must give a detailed statement of any adverse effects on energy supply, distribution, or use should the proposal be implemented, and of reasonable alternatives to the action and their expected benefits on energy supply, distribution, and use.

This rule allows manufacturers of commercial HVAC, WH, and refrigeration equipment the opportunity to witness the set-up for DOE verification testing for up to 10 percent of basic models submitted to DOE for certification and rated with an AEDM, and is not a significant regulatory action under Executive Order 12866. Moreover, it would not have a significant adverse effect on the supply, distribution, or use of energy, nor has it been designated as a significant energy action by the Administrator of OIRA. Therefore, DOE has not prepared a Statement of Energy Effects.

L. Review Under Section 32 of the Federal Energy Administration Act of 1974

Under section 301 of the Department of Energy Organization Act (Pub. L. 95–91; 42 U.S.C. 7101), DOE must comply with section 32 of the Federal Energy Administration Act of 1974, as amended by the Federal Energy Administration Authorization Act of 1977. (15 U.S.C. 788; FEAA) Section 32 essentially provides in relevant part that, where a rule authorizes or requires use of commercial standards, the notice of rulemaking must inform the public of the use and background of such standards. In addition, section 32(c) requires DOE to consult with the Attorney General and the Chairman of the Federal Trade Commission (FTC) concerning the impact of the commercial or industry standards on competition. This rule amending DOE's regulations relating to the verification test procedure for commercial HVAC, WH, and refrigeration equipment rated with an AEDM does not involve the use of any commercial standards.

M. Congressional Notification

As required by 5 U.S.C. 801, DOE will report to Congress on the promulgation of this rule before its effective date. The report will state that it has been determined that the rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

IV. Approval of the Office of the Secretary

The Secretary of Energy has approved publication of this supplemental notice of proposed rulemaking.

List of Subjects in 10 CFR Part 429

Administrative practice and procedure, Energy conservation, Reporting and recordkeeping requirements.

Issued in Washington, DC, on December 22, 2014.

Kathleen B. Hogan,

Deputy Assistant Secretary for Energy Efficiency, Energy Efficiency and Renewable Energy.

For the reasons set forth in the preamble, DOE is amending part 429 of chapter II, subchapter D, of title 10 of the Code of Federal Regulations, as set forth below:

PART 429—CERTIFICATION, COMPLIANCE AND ENFORCEMENT FOR CONSUMER PRODUCTS AND COMMERCIAL AND INDUSTRIAL EQUIPMENT

■ 1. The authority citation for part 429 continues to read as follows:

Authority: 42 U.S.C. 6291–6317.

■ 2. Section 429.7 is amended in paragraph (b) introductory text by removing the words ''it is'' and by revising paragraph (b)(3) to read as follows:

§ 429.7 Confidentiality.

* * * * *

(b) * * *

(3) Disclosure of the individual, manufacturer model number would reveal confidential business information as described at § 1004.11 of this title—in which case, under these limited circumstances, a manufacturer may identify the individual manufacturer model number as a private model number on a certification report submitted pursuant to § 429.12(b)(6).

* * * * *

■ 3. Section 429.41 is amended by revising the section heading and paragraph (b)(4) to read as follows:

§ 429.41 Commercial warm air furnaces.

* * * * *

(b) * * *

(4) Pursuant to § 429.12(b)(13), a certification report may include supplemental testing instructions in PDF format. If necessary to run a valid test, the equipment-specific, supplemental information must include any additional testing and testing set up instructions (*e.g.,* specific operational or control codes or settings), which would be necessary to operate the basic model under the required conditions specified by the relevant test procedure. A manufacturer may also include with a certification report other supplementary items in PDF format (*e.g.,* manuals) for DOE consideration in performing testing under subpart C of this part.

■ 4. Section 429.42 is amended by revising paragraph (b)(4) to read as follows:

§ 429.42 Commercial refrigerators, freezers, and refrigerator-freezers.

* * * * *

(b) * * *

(4) Pursuant to § 429.12(b)(13), a certification report must include supplemental information submitted in PDF format. The equipment-specific, supplemental information must include any additional testing and testing set up instructions (*e.g.,* charging instructions) for the basic model; identification of all special features that were included in rating the basic model; and all other information (*e.g.,* any specific settings or controls) necessary to operate the basic model under the required conditions specified by the relevant test procedure. A manufacturer may also include with a certification report other supplementary items in PDF format (*e.g.,* manuals) for DOE to consider when performing testing under subpart C of this part.

■ 5. Section 429.43 is amended by revising paragraph (b)(4) introductory text to read as follows:

§ 429.43 Commercial heating, ventilating, air conditioning (HVAC) equipment.

* * * * *

(b) * * *

(4) Pursuant to § 429.12(b)(13), a certification report must include supplemental information submitted in PDF format. The equipment-specific, supplemental information must include any additional testing and testing set up instructions (*e.g.,* charging instructions) for the basic model; identification of all special features that were included in rating the basic model; and all other information (*e.g.,* operational codes or component settings) necessary to operate the basic model under the required conditions specified by the relevant test procedure. A manufacturer may also include with a certification report other supplementary items in PDF format (*e.g.,* manuals) for DOE consideration in performing testing under subpart C of this part. The equipment-specific, supplemental information must include at least the following:

* * * * *

■ 6. Section 429.44 is amended by revising paragraph (b)(4) to read as follows:

§ 429.44 Commercial water heating equipment.

* * * * *

(b) * * *

(4) Pursuant to § 429.12(b)(13), a certification report may include supplemental testing instructions in PDF format. If necessary to run a valid test, the equipment-specific, supplemental information must include any additional testing and testing set up instructions (*e.g.,* whether a bypass loop was used for testing) for the basic model and all other information (*e.g.,* operational codes or overrides for the control settings) necessary to operate the basic model under the required conditions specified by the relevant test procedure. A manufacturer may also include with a certification report other supplementary items in PDF format (*e.g.,* manuals) for DOE consideration in performing testing under subpart C of this part.

* * * * *

■ 7. Section 429.60 is amended by revising paragraph (b)(4) to read as follows:

§ 429.60 Commercial packaged boilers.

* * * * *

(b) * * *

(4) Pursuant to § 429.12(b)(13), a certification report may include supplemental testing instructions in PDF format. If necessary to run a valid test, the equipment-specific, supplemental information must include any additional testing and testing set up instructions (*e.g.,* specific operational or control codes or settings), which would be necessary to operate the basic model under the required conditions specified by the relevant test procedure. A manufacturer may also include with a certification report other supplementary items in PDF format (*e.g.,* manuals) for DOE consideration in performing testing under subpart C of this part.

* * * * *

■ 8. Section 429.70 is amended by revising paragraph (c)(5)(iii) to read as follows:

§ 429.70 Alternative methods for determining energy efficiency and energy use.

* * * * *

(c) * * *

(5) * * *

(iii) *Manufacturer participation.* (A) Except when testing variable refrigerant flow systems (which are governed by the rules found at § 431.96(f)), testing will be completed without a manufacturer representative on-site. In limited instances further described in paragraph (c)(5)(iii)(B) of this section, a manufacturer and DOE representative may be present to witness the test set-up.

(B) A manufacturer's representative may request to be on-site to witness the test set-up if:

(*1*) The installation manual for the basic model specifically requires it to be started only by a factory-trained installer; or

(*2*) The manufacturer has elected, as part of the certification of that basic model, to have the opportunity to witness the test set-up. A manufacturer may elect to witness the test set-up for the initial verification test for no more than 10 percent of the manufacturer's basic models submitted for certification and rated with an AEDM per validation class specified in section (c)(2)(iv) of this paragraph. The 10-percent limit applies to all of the eligible basic models submitted for certification by a given manufacturer no matter how many AEDMs a manufacturer has used to develop its ratings. The 10-percent limit is determined by first calculating 10 percent of the total number of basic models rated with an AEDM per validation class, and then truncating the resulting product. Manufacturers who have submitted fewer than 10 basic models rated with an AEDM for certification may elect to have the opportunity to witness the test set-up of one basic model. A manufacturer must identify the basic models it wishes to witness as part of its certification report(s) prior to the basic model being selected for verification testing.

(*3*) In those instances in which a manufacturer has not provided the required information as specified in § 429.12(b)(13) for a given basic model that has been rated and certified as compliant with the applicable standards, a manufacturer is precluded from witnessing the testing set up for that basic model.

(C) A DOE representative will be present for the test set-up in all cases where a manufacturer representative requests to be on-site for the test set-up. The manufacturer's representative cannot communicate with a lab representative outside of the DOE representative's presence.

(D) If DOE has obtained through retail channels a unit for test that meets either of the conditions in paragraph (c)(5)(iii)(B) of this section, DOE will notify the manufacturer that the basic model was selected for testing and that the manufacturer may have a representative present for the test set-up. If the manufacturer does not respond within five calendar days of receipt of that notification, the manufacturer waives the option to be present for test set-up, and DOE will proceed with the test set-up without a manufacturer's representative present.

(E) If DOE has obtained directly from the manufacturer a unit for test that meets either of the conditions in paragraph (c)(5)(iii)(B) of this section, DOE will notify the manufacturer of the option to be present for the test set-up at the time the unit is purchased. DOE will specify the date (not less than five calendar days) by which the manufacturer must notify DOE whether a manufacturer's representative will be present. If the manufacturer does not notify DOE by the date specified, the manufacturer waives the option to be present for the test set-up, and DOE will proceed with the test set-up without a manufacturer's representative present.

(F) DOE will review the certification submissions from the manufacturer that were on file as of the date DOE purchased a basic model (under paragraph (c)(5)(iii)(D) of this section) or the date DOE notifies the manufacturer that the basic model has been selected for testing (under paragraph (c)(5)(iii)(E) of this section) to determine if the manufacturer has indicated that it intends to witness the test set-up of the selected basic model. DOE will also verify that the manufacturer has not exceeded the allowable limit of witness testing selections as specified in paragraph (c)(5)(iii)(B)(*2*) of this section. If DOE discovers that the manufacturer exceeded the limits specified in paragraph (c)(5)(iii)(B)(*2*), DOE will notify the manufacturer of this fact and deny its request to be present for the test set-up of the selected basic model. The manufacturer must update its certification submission to ensure it has not exceeded the allowable limit of witness testing selections as specified in paragraph (c)(5)(iii)(B)(*2*) to be present at set-up for future selections. At this time DOE will also review the supplemental PDF submission(s) for the selected basic model to determine that all necessary information has been provided to the Department.

(G) If DOE determines, pursuant to paragraph (c)(5)(ii) of this section, that the model should be tested at the manufacturer's facility, a DOE representative will be present on site to observe the test set-up and testing with the manufacturer's representative. All testing will be conducted at DOE's direction, which may include DOE-contracted personnel from a third-party lab, as well as the manufacturer's technicians.

(H) As further explained in paragraph (c)(5)(v)(B) of this section, if a manufacturer's representative is present for the initial test set-up for any reason, the manufacturer forfeits any opportunity to request a retest of the basic model. Furthermore, if the manufacturer requests to be on-site for test set-up pursuant to paragraph (c)(5)(iii)(B) of this section but is not present on site, the manufacturer forfeits any opportunity to request a retest of the basic model.

* * * * *

[FR Doc. 2014–30821 Filed 1–2–15; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2013–0460; Directorate Identifier 2012–NM–222–AD; Amendment 39–18054; AD 2014–26–03]

RIN 2120–AA64

Airworthiness Directives; Saab AB, Saab Aerosystems Airplanes

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

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for all Saab AB, Saab Aerosystems Model 340B airplanes. This AD was prompted by a report that the elevator position quoted in an aircraft maintenance manual is incorrect and a report that the trunnion at the lower part of the control column was installed incorrectly. This AD requires an inspection of the stick pusher rigging and an inspection of the installation of the trunnion and the stick pusher rigging, and corrective actions if necessary. We are issuing this AD to correct the rigging of the elevator position of the stick pusher to reduce the probability of a negative effect on the handling quality during stall, which could result in reduced controllability of the airplane.

DATES: This AD becomes effective February 9, 2015.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of February 9, 2015.

ADDRESSES: You may examine the AD docket on the Internet at *http://www.regulations.gov/#!docketDetail;D=FAA-2013-0460* or in person at the Docket Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC.

For service information identified in this AD, contact Saab AB, Saab Aeronautics, SE–581 88, Linköping, Sweden; telephone +46 13 18 5591; fax +46 13 18 4874; email *saab340techsupport@saabgroup.com*; Internet *http://www.saabgroup.com*. You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

FOR FURTHER INFORMATION CONTACT: Shahram Daneshmandi, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone 425–227–1112; fax 425–227–1149.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a supplemental notice of proposed rulemaking (SNPRM) to amend 14 CFR part 39 by adding an AD that would apply to all Saab AB, Saab Aerosystems Model 340B airplanes. The SNPRM published in the **Federal Register** on August 12, 2014 (79 FR 47025). We preceded the SNPRM with a notice of proposed rulemaking (NPRM) that published in the **Federal Register** on June 3, 2013 (78 FR 33010).

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued EASA Airworthiness Directive 2013–0253, dated October 18, 2013 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition on all Saab AB, Saab Aerosystems Model 340B airplanes. The MCAI states:

> The standard stick pusher maximum elevator position of a SAAB 340B, prior to delivery, is set at 7.5 degrees trailing edge down. It was recently discovered that this value has been incorrectly referenced in the SAAB 340B Aircraft Maintenance Manual (AMM), which quotes an elevator position of 4 degrees trailing edge down for all aeroplanes, which is the correct value for SAAB SF340A aeroplanes only.
>
> If a SAAB 340B aeroplane has been re-rigged in accordance with current AMM procedure, there is a possibility that the deflection of the elevator will be less than intended.
>
> This condition, if not corrected, will affect the stall characteristics on the outer part of the envelope at maximum flap setting and aft centre of gravity (CG) configuration, possibly resulting in reduced control of the aeroplane.
>
> To address this potential unsafe condition, SAAB AB Aeronautics issued Service Bulletin (SB) 340–27–105 to reduce the probability of a negative effect on the handling quality during stall. Consequently, EASA issued AD 2012–0256 [*http://www.regulations.gov/#!documentDetail;D=FAA-2013-0460-0002*] to require a one-time inspection of the stick pusher rigging and, depending on findings, adjustment to the correct setting.
>
> Since that [EASA] AD was issued, it has been reported that on some aeroplanes, during implementation of SB 340–27–105, the trunnion at the lower part of the control column was incorrectly installed. This prevents proper inspection of the stick pusher rigging.
>
> Prompted by this finding, SAAB issued SB 340–27–115 with instructions for all aeroplanes, regardless whether SB 340–27–105 has been accomplished or not.
>
> For the reasons described above, this [EASA] AD retains the requirements of EASA AD 2012–0256, which is superseded, but requires the use of the improved and expanded instructions specified in SAAB SB 340–27–115.

You may examine the MCAI in the AD docket on the Internet at *http://www.regulations.gov/#!documentDetail;D=FAA-2013-0460-0005*.

Comments

We gave the public the opportunity to participate in developing this AD. We received no comments on the SNPRM (79 FR 47025, August 12, 2014) or on the determination of the cost to the public.

Conclusion

We reviewed the relevant data and determined that air safety and the public interest require adopting this AD as proposed except for minor editorial changes. We have determined that these minor changes:

- Are consistent with the intent that was proposed in the SNPRM (79 FR 47025, August 12, 2014) for correcting the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the SNPRM (79 FR 47025, August 12, 2014).

Costs of Compliance

We estimate that this AD affects 109 airplanes of U.S. registry.

We also estimate that it will take about 12 work-hours per product to comply with the basic requirements of this AD. The average labor rate is $85 per work-hour. Required parts will cost about $10 per product. Based on these figures, we estimate the cost of this AD on U.S. operators to be $112,270, or $1,030 per product.

Paperwork Reduction Act

A federal agency may not conduct or sponsor, and a person is not required to respond to, nor shall a person be subject to penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a current valid OMB control number. The control number for the collection of information required by this AD is 2120–0056. The paperwork cost associated with this AD has been detailed in the Costs of Compliance section of this document and includes time for reviewing instructions, as well as completing and reviewing the collection of information.

Therefore, all reporting associated with this AD is mandatory. Comments concerning the accuracy of this burden and suggestions for reducing the burden should be directed to the FAA at 800 Independence Ave. SW., Washington, DC 20591, ATTN: Information Collection Clearance Officer, AES–200.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov/#!docketDetail;D=FAA-2013-0460*; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone 800–647–5527) is in the **ADDRESSES** section.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2014–26–03 Saab AB, Saab Aerosystems: Amendment 39–18054. Docket No. FAA–2013–0460; Directorate Identifier 2012–NM–222–AD.

(a) Effective Date

This AD becomes effective February 9, 2015.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Saab AB, Saab Aerosystems Model 340B airplanes, certificated in any category, all serial numbers.

(d) Subject

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

(e) Reason

This AD was prompted by a report that the elevator position quoted in an aircraft maintenance manual is incorrect and a report that the trunnion at the lower part of the control column was installed incorrectly. We are issuing this AD to correct the rigging of the elevator position of the stick pusher to reduce the probability of a negative effect on the handling quality during stall, which could result in reduced controllability of the airplane.

(f) Compliance

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

(g) Inspection

Within 24 months after the effective date of this AD, do a detailed inspection of the installation of the trunnion at the lower part of the control column and the stick pusher rigging, in accordance with the Accomplishment Instructions of Saab Service Bulletin 340–27–115, dated July 19, 2013.

(h) Corrective Actions

If, during the inspection required by paragraph (g) of this AD, an incorrect setting of the stick pusher maximum elevator position is found, or if the trunnion at the lower part of the control column is installed incorrectly, before further flight, accomplish all applicable corrective actions, in accordance with the Accomplishment Instructions of Saab Service Bulletin 340–27–115, dated July 19, 2013; except where Saab Service Bulletin 340–27–115, dated July 19, 2013, specifies to contact SAAB for corrective action, repair before further flight, using a method approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA; or the European Aviation Safety Agency (EASA); or Saab AB, Saab Aerosystems' EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.

(i) Reporting Requirement

After accomplishing corrective actions as required by paragraph (h) of this AD, record any incorrect rigging value that was detected and send a report to: Saab AB, Business Area Support and Services, Air Division, Technical Support, email: *Saab340.techsupport@saabgroup.com*; fax: +46 (0) 13 18 48 74; at the applicable time specified in paragraph (i)(1) or (i)(2) of this AD.

(1) If the corrective action was done on or after the effective date of this AD: Submit the report within 30 days after accomplishing the corrective action.

(2) If the corrective action was done before the effective date of this AD: Submit the report within 30 days after the effective date of this AD.

(j) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, ANM–116, International Branch, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the International Branch, send it to ATTN: Shahram Daneshmandi, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone 425–227–1112; fax 425–227–1149. Information may be emailed to: *9-ANM-116-AMOC-REQUESTS@faa.gov*. Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office. The AMOC approval letter must specifically reference this AD.

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain corrective actions from a manufacturer, the action must be accomplished using a method approved

by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA; or EASA; or Saab AB, Saab Aerosystems' EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.

(3) *Reporting Requirements:* A federal agency may not conduct or sponsor, and a person is not required to respond to, nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a current valid OMB Control Number. The OMB Control Number for this information collection is 2120–0056. Public reporting for this collection of information is estimated to be approximately 5 minutes per response, including the time for reviewing instructions, completing and reviewing the collection of information. All responses to this collection of information are mandatory. Comments concerning the accuracy of this burden and suggestions for reducing the burden should be directed to the FAA at: 800 Independence Ave. SW., Washington, DC 20591, Attn: Information Collection Clearance Officer, AES–200.

(k) Related Information

Refer to Mandatory Continuing Airworthiness Information (MCAI) EASA Airworthiness Directive 2013–0253, dated October 18, 2013, for related information. This MCAI may be found in the AD docket on the Internet at *http://www.regulations.gov/#!documentDetail;D=FAA-2013-0460-0005*.

(l) Material Incorporated by Reference

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

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

(i) Saab Service Bulletin 340–27–115, dated July 19, 2013.

(ii) Reserved.

(3) For service information identified in this AD, contact Saab AB, Saab Aeronautics, SE–581 88, Linköping, Sweden; telephone +46 13 18 5591; fax +46 13 18 4874; email *saab340techsupport@saabgroup.com*; Internet *http://www.saabgroup.com*.

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

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

Issued in Renton, Washington, on December 17, 2014.

Michael Kaszycki,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2014–30428 Filed 1–2–15; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2014–0848; Directorate Identifier 2014–CE–031–AD; Amendment 39–18055; AD 2014–26–04]

RIN 2120–AA64

Airworthiness Directives; GROB–WERKE Airplanes

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

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain GROB–WERKE Models G115EG and G120A airplanes. This AD results from mandatory continuing airworthiness information (MCAI) issued by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as a defective starter solenoid. We are issuing this AD to require actions to address the unsafe condition on these products.

DATES: This AD is effective February 9, 2015.

The Director of the Federal Register approved the incorporation by reference of certain publication listed in the AD as of February 9, 2015.

ADDRESSES: You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2014–0848; or in person at Document Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.

For service information identified in this AD, contact Grob Aircraft AG, Customer Service, Lettenbachstrasse 9, D–86874 Tussenhausen-Mattsies, Germany, telephone: + 49 (0) 8268–998–105; fax: + 49 (0) 8268–998–200; email: *productsupport@grob-aircraft.com*; Internet: *grob-aircraft.com*. You may view this referenced service information at the FAA, Small Airplane Directorate, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148.

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

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain GROB–WERKE Models G115EG and G120A airplanes. The NPRM was published in the **Federal Register** on October 23, 2014 (79 FR 63340). The NPRM proposed to correct an unsafe condition for the specified products and was based on mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country. The MCAI states:

> An operator of a G 115E aeroplane experienced a total loss of electrical power in flight. The root cause was found to be a defective starter solenoid causing an internal short circuit, which resulted in breakdown of the system voltage.
>
> This condition, if not detected and corrected, could result in reduced control of the aeroplane.
>
> To address this potential unsafe condition, GROB Aircraft AG issued Service Bulletin (SB) MSB1078–196 for G 115 aeroplanes and SB MSB1121–144 for G 120 aeroplanes to provide instructions for inspection and corrective action.
>
> For the reason described above, this AD requires a one-time inspection of the starter solenoid and, depending on the findings, replacement of the starter.
>
> A technical solution is currently under development and further AD action may follow.

The MCAI can be found in the AD docket on the Internet at *http://www.regulations.gov/#!documentDetail;D=FAA-2014-0848-0002.*

Comments

We gave the public the opportunity to participate in developing this AD. We received no comments on the NPRM (79 FR 63340, October 23, 2014) or on the determination of the cost to the public.

Conclusion

We reviewed the relevant data and determined that air safety and the public interest require adopting the AD as proposed except for minor editorial changes. We have determined that these minor changes:

• Are consistent with the intent that was proposed in the NPRM (79 FR 63340, October 23, 2014) for correcting the unsafe condition; and

• Do not add any additional burden upon the public than was already proposed in the NPRM (79 FR 63340, October 23, 2014).

Interim Action

We consider this AD interim action. GROB Aircraft is currently working on a final technical solution to resolve the unsafe condition. If final action is later identified, we might consider further rulemaking.

Costs of Compliance

We estimate that this AD will affect 6 products of U.S. registry. We also estimate that it will take about 4 work-hours per product to comply with the basic requirements of this AD. The average labor rate is $85 per work-hour.

Based on these figures, we estimate the cost of this AD on U.S. operators to be $2,040, or $340 per product.

In addition, we estimate that any necessary follow-on actions will take about 4 work-hours and require parts costing $600, for a cost of $940 per product. We have no way of determining the number of products that may need these actions.

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this AD:

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

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

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

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

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2014–0848; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains the NPRM, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (telephone (800) 647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by adding the following new AD:

2014–26–04 GROB–WERKE: Amendment 39–18055; Docket No. FAA–2014–0848; Directorate Identifier 2014–CE–031–AD.

(a) Effective Date

This airworthiness directive (AD) becomes effective February 9, 2015.

(b) Affected ADs

None.

(c) Applicability

This AD applies to GROB–WERKE Model G115EG airplanes, all serial numbers through 82323/E, and Model G120A airplanes, all serial numbers through 85063, certificated in any category.

(d) Subject

Air Transport Association of America (ATA) Code 80: Starting.

(e) Reason

This AD was prompted by mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as a defective starter solenoid. We are issuing this AD to detect and correct defective starter solenoids, which could cause an internal short circuit and could result in reduced control.

(f) Actions and Compliance

Unless already done, do the actions in paragraphs (f)(1) and (f)(2) of this AD:

(1) Within the next 30 days after February 9, 2015 (the effective date of this AD), inspect the starter following the Accomplishment Instructions in GROB Aircraft Service Bulletin No. MSB1078–196, dated July 14, 2014, or GROB Aircraft Service Bulletin No. MSB1121–144, dated July 14, 2014, as applicable.

(2) If any damage is found on the starter during the inspection required in paragraph (f)(1) of this AD, before further flight, replace the starter with a serviceable part. Do the replacement following the Accomplishment Instructions in GROB Aircraft Service Bulletin No. MSB1078–196, dated July 14, 2014, or GROB Aircraft Service Bulletin No. MSB1121–144, dated July 14, 2014, as applicable.

(g) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, Standards Office, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Karl Schletzbaum, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4123; fax: (816) 329–4090; email: *karl.schletzbaum@faa.gov*. Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

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

(h) Related Information

Refer to MCAI European Aviation Safety Agency (EASA) AD No. 2014–0212, dated September 19, 2014, for related information. You may examine the MCAI on the Internet at *http://www.regulations.gov/#!documentDetail;D=FAA-2014-0848-0002*.

(i) Material Incorporated by Reference

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

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

(i) GROB Aircraft Service Bulletin No. MSB1078–196, dated July 14, 2014.

(ii) GROB Aircraft Service Bulletin No. MSB1121–144, dated July 14, 2014.

(3) For GROB Aircraft AG service information identified in this AD, contact Grob Aircraft AG, Customer Service, Lettenbachstrasse 9, D–86874 Tussenhausen-Mattsies, Germany, telephone: + 49 (0) 8268–998–105; fax; + 49 (0) 8268–998–200; email: *productsupport@grob-aircraft.com*; Internet: *grob-aircraft.com*.

(4) You may view this service information at the FAA, Small Airplane Directorate, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148. In addition, you can access this service information on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2014–0848.

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

Issued in Kansas City, Missouri, on December 22, 2014.

Robert Busto,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2014–30489 Filed 1–2–15; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2014–0771; Directorate Identifier 2014–CE–006–AD; Amendment 39–18056; AD 2014–26–05]

RIN 2120–AA64

Airworthiness Directives; Beechcraft Corporation Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain Beechcraft Corporation Model G58 airplanes. This AD was prompted by reports of fuel leaks due to fuel cells that did not properly fit in Model G58 airplanes. This AD requires inspecting for and replacing, as necessary, certain fuel cells. This AD also requires inspecting and replacing parts, as necessary, of the left and right fuel system installations and correcting torques on fuel system fittings; and prohibits future installations of certain fuel cells. We are issuing this AD to correct the unsafe condition on these products.

DATES: This AD is effective February 9, 2015.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of February 9, 2015.

ADDRESSES:

- For information relating to Beechcraft Corporation Model G58 airplanes or part numbers contact: Thomas Teplik, Aerospace Engineer, Wichita Aircraft Certification Office, FAA, 1801 Airport Road, Room 100, Wichita, Kansas 67209; phone: (316) 946–4196; fax: (316) 946–4107; email: *thomas.teplik@faa.gov.*
- For information relating to Floats and Fuel Cells, Inc. (FFC) parts manufacturer approval (PMA) fuel cells contact: Keith Moore, Atlanta Aircraft Certification Office, FAA, 1701 Columbia Avenue, College Park, Georgia 30337; telephone: (404) 474–5517; fax: (404) 474–5500; email: *keith.moore@faa.gov.*

You may view this referenced service information at the FAA, Small Airplane Directorate, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2014–0771; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The address for the Docket Office (phone: 800–647–5527) is Document Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT:

- For information relating to Beechcraft Corporation Model G58 airplanes or part numbers contact: Thomas Teplik, Aerospace Engineer, Wichita Aircraft Certification Office, FAA, 1801 Airport Road, Room 100, Wichita, Kansas 67209; phone: (316) 946–4196; fax: (316) 946–4107; email: *thomas.teplik@faa.gov.*
- For information relating to Floats and Fuel Cells, Inc. (FFC) parts manufacturer approval (PMA) fuel cells contact: Keith Moore, Atlanta Aircraft Certification Office, FAA, 1701 Columbia Avenue, College Park, Georgia 30337; telephone: (404) 474–5517; fax: (404) 474–5500; email: *keith.moore@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain Beechcraft Corporation Model G58 airplanes. The NPRM published in the **Federal Register** on October 7, 2014 (79 FR 60384). The NPRM was prompted by reports of fuel leaks due to fuel cells that did not properly fit; improper installation of fuel components, which may cause loads on fuel cells and breach of fuel cells; and improper installation of fuel hoses and clamps, which may cause fuel leaks in Model G58 airplanes. The NPRM proposed to require inspecting for and replacing, as necessary, certain fuel cells. The NPRM also proposed to require inspecting and replacing parts, as necessary, of the left and right fuel system installations and correcting torques on fuel system fittings; and prohibit future installations of certain fuel cells. We are issuing this AD to correct the unsafe condition on these products.

Comments

We gave the public the opportunity to participate in developing this AD. We received no comments on the NPRM (79 FR 60384, October 7, 2014) or on the determination of the cost to the public.

Conclusion

We reviewed the relevant data and determined that air safety and the public interest require adopting this AD as proposed except for minor editorial changes. We have determined that these minor changes:

- Are consistent with the intent that was proposed in the NPRM (79 FR 60384, October 7, 2014) for correcting the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the NPRM (79 FR 60384, October 7, 2014).

Costs of Compliance

We estimate that this AD affects 18 airplanes of U.S. registry.

We estimate the following costs to comply with this AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Inspection of fuel cells *	12 work-hours × $85 per hour = $1,020	Not Applicable	$1,020	$5,100
Inspection of left and right fuel system installations **.	30 work-hours × $85 per hour = $2,550	Not Applicable	2,550	28,050
Inspection for proper torque on fuel system fittings ***.	4 work-hours × $85 per hour = $340	Not Applicable	340	2,380

* Applies to the 5 specific serial numbers on the U.S. registry that may have improperly fitting fuel cells installed at production.
** Applies to the 11 specific serial numbers on the U.S. registry that must do Part 1 of the service information.
*** Applies to the 7 specific serial numbers on the U.S. registry, listed in the service information that must do Part 2 of the service information.

We estimate the following costs to do any necessary installations/replacements that are required based on the results of inspections. We have no way of determining the number of airplanes that might need these installations/replacements:

ON-CONDITION COSTS

Action	Labor cost	Parts cost	Cost per product
Replacement of left-hand (LH) leading edge (LE) outboard fuel cell.	16 work-hours × $85 per hour = $1,360	$2,599 (includes fuel cell, $2,545 + clamp/gasket, $54).	$3,959
Replacement of right-hand (RH) LE outboard fuel cell.	16 work-hours × $85 per hour = $1,360	$2,599 (includes fuel cell, $2,545 + clamp/gasket, $54).	3,959
Replacement of LH LE inboard fuel cell	16 work-hours × $85 per hour = $1,360	$4,264 (includes fuel cell, $4,210 + clamp/gasket, $54).	5,624
Replacement of RH LE inboard fuel cell	16 work-hours × $85 per hour = $1,360	$2,242 (includes fuel cell, $2,188 + clamp/gasket, $54).	3,602
Replacement of LH center fuel cell	16 work-hours × $85 per hour = $1,360	$1,931 (includes fuel cell, $1,877 + clamp/gasket, $54).	3,291
Replacement of RH center fuel cell	16 work-hours × $85 per hour = $1,360	$3,049 (includes fuel cell, $2,995 + clamp/gasket, $54).	4,409
Replacement of tube assembly, flex hose, and clamps.	10 work-hours × $85 per hour = $850	$672 (includes LH and RH tube assemblies, flex hoses, and clamps).	1,522

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

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2014–26–05 Beechcraft Corporation: Amendment 39–18056; Docket No. FAA–2014–0771; Directorate Identifier 2014–CE–006–AD.

(a) Effective Date

This AD is effective February 9, 2015.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Beechcraft Corporation Model G58 airplanes, serial numbers (SNs)

TH–2335 through TH–2378, certificated in any category.

(d) Subject

Joint Aircraft System Component (JASC)/ Air Transport Association (ATA) of America Code: 28, Fuel.

(e) Unsafe Condition

This AD was prompted by reports of fuel leaks due to fuel cells that did not properly fit in Model G58 airplanes. We are issuing this AD to detect and correct improperly fitting fuel cells. We are also issuing this AD to correct left and right fuel system installations and set correct torque on fuel system fittings for all affected airplanes, which if not corrected, could result in significant fuel leakage. This could lead to an imbalance condition, which may affect airplane controllability, and/or could lead to an airplane fire.

(f) Compliance

Comply with this AD within the compliance times specified in paragraphs (g) and (h), including all subparagraphs, unless already done. All of the actions in paragraphs (g) and (h) must be completed for compliance with this AD. The actions of Beechcraft Mandatory Service Bulletin SB 28–4127, dated June 2013, and Beechcraft Mandatory Service Bulletin SB 28–4131, dated November 2013, have numerous overlapping tasks. Instead of completing the required actions in paragraph (g) and paragraph (h) separately, you may complete the actions of both paragraphs concurrently to avoid repeating the same tasks unnecessarily. We recommend reviewing Appendices 1 through 3 of this AD for general guidance and suggestions for task ordering to assist you in not repeating tasks unnecessarily.

(g) Fuel Cell Inspection

(1) *For Model G58 airplanes, S/Ns TH–2356 through TH–2378:* Within the next 100 hours time-in-service (TIS) after [February 9, 2015 (the effective date of this AD) or within the next 12 months after February 9, 2015 (the effective date of this AD), whichever occurs first, inspect the fuel cells (left hand (LH) inboard, outboard, and center; and right hand (RH) inboard, outboard, and center) following Beechcraft Mandatory Service Bulletin SB 28–4131, dated November 2013. If any fuel cell is Beechcraft Corporation P/N 60–921046–5, 60–921046–6, 002–920034–9, 002–920034–10, 58–380003–13, or 58–380003–14; or Floats and Fuel Cells, Inc. (FFC) parts manufacturer approval (PMA) P/N B–2503–9/–10; B–2034–3/–4; or B–2646–3/–4, before further flight, replace the fuel cell(s) with Beechcraft Corporation P/N 60–921046–1, 60–921046–2, 002–920034–1, 002–920034–2, 58–380003–5, or 58–380003–6, as applicable, following Beechcraft Mandatory Service Bulletin SB 28–4131, dated November 2013.

(2) *For Model G58 airplanes, S/Ns TH–2335 through TH–2378:* As of February 9, 2015 (the effective date of this AD), do not install the following P/Ns:

(i) Beechcraft Corporation P/N 60–921046–5, 60–921046–6, 002–920034–9, 002–920034–10, 58–380003–13, or 58–380003–14; or

(ii) FFC PMA fuel cells P/N B–2503–9/–10, B–2034–3/–4, or B–2646–3/–4.

(h) Fuel System Inspection

Certain Model G58 airplanes, as listed in paragraphs (h)(1), (h)(2), and (h)(3) of this AD, may have incorrect left and right fuel system installations and incorrect torque on fuel system fittings.

(1) *For Model G58 airplanes, SNs TH–2335, TH–2338 through TH–2348, TH–2351 through TH–2359, TH–2362 through TH–2366, TH–2369, and TH–2371 that are already in compliance with Part 1 of the Accomplishment Instructions in Beechcraft Mandatory Service Bulletin SB 28–4127, dated June 2013:* Within 100 hours TIS after February 9, 2015 (the effective date of this AD) or within the next 12 months after February 9, 2015 (the effective date of this AD), whichever occurs first, do the following actions in paragraphs (h)(1)(i) and (h)(1)(ii), including all subparagraphs as applicable:

(i) If any discrepancies are/were found during the inspection of the fuel cell system that required replacement of one of the fuel cells, do the following actions:

(A) Review the airplane maintenance records, Airworthiness Approval Tag (FAA Form 8130–3), or other positive form of parts identification such as a shipping ticket, invoice, or direct ship authority letter, to determine if the replaced fuel cell(s) is P/N 60–921046–5, 60–921046–6, 002–920034–9, 002–920034–10, 58–380003–13, or 58–380003–14; or FFC P/N B–2503–9/–10, B–2034–3/–4, or B–2646–3/–4.

(B) If during the check in paragraph (h)(1)(i)(A) of this AD, you positively identify the replaced fuel cell(s) is not P/N 60–921046–5, 60–921046–6, 002–92003–9, 002–920034–10, 58–380003–13, or 58–380003–14; or FFC P/N B–2503–9/–10, B–2034–3/–4, or B–2646–3/–4, go to the required action in paragraph (h)(1)(ii) of this AD.

(C) If during the check in paragraph (h)(1)(i)(A) of this AD, you positively identify the replaced fuel cell(s) is P/N 60–921046–5, 60–921046–6, 002–920034–9, 002–920034–10, 58–380003–13, 58–380003–14; or FFC P/N B–2503–9/–10, B–2034–3/–4, or B–2646–3/–4, before further flight, replace the fuel cell(s) with Beechcraft Corporation P/N 60–921046–1, 60–921046–2, 002–920034–1, 002–920034–2, 58–380003–5, or 58–380003–6, as applicable, following Beechcraft Mandatory Service Bulletin SB 28–4131, dated November 2013.

(D) If during the check in paragraph (h)(1)(i)(A) of this AD, you cannot positively identify the P/N of the replaced fuel cell(s), within the next 100 hours TIS after February 9, 2015 (the effective date of this AD) or within the next 12 months after February 9, 2015 (the effective date of this AD), whichever occurs first, physically inspect each replaced fuel cell to verify the part number. If the replaced fuel cell(s) is P/N 60–921046–5, 60–921046–6, 002–920034–9, 002–920034–10, 58–380003–13, 58–380003–14; or FFC P/N B–2503–9/–10, B–2034–3/–4, or B–2646–3/–4, before further flight, replace the fuel cell(s) with Beechcraft Corporation P/N 60–921046–1, 60–921046–2, 002–920034–1, 002–920034–2, 58–380003–5, or 58–380003–6, as applicable, following Beechcraft Mandatory Service Bulletin SB 28–4131, dated November 2013.

(ii) Gain access to the wet wing interconnect tube P/N 60–921047–1 following Part 1 of the Accomplishment Instructions in Beechcraft Mandatory Service Bulletin SB 28–4127, dated June 2013. Verify wet wing interconnect tube P/N 60–921047–1 is installed in leading edge outboard fuel cell with correct clamp P/N 52KS3 or P/N 4852SS305 and the clamp is torqued to 20 to 25 inch pounds.

Note 1 to paragraphs (h)(1)(ii) and (h)(2)(iii): The correct clamp part number and correct torque for installing the wet wing interconnect tube were inadvertently omitted from Beechcraft Mandatory Service Bulletin SB 28–4127, dated June 2013, when it was issued.

(A) If you can positively identify the wet wing interconnect tube is installed with the correct clamp and the correct torque value during the inspection required in paragraph (h)(1)(ii) of this AD, return airplane to service and perform leak check following Part 1 of the Accomplishment Instructions in Beechcraft Mandatory Service Bulletin SB 28–4127, dated June 2013.

(B) If you cannot positively identify the wet wing interconnect tube is installed with the correct clamp and/or the correct torque value during the inspection required in paragraph (h)(1)(ii) of this AD, before further flight, replace the clamp with P/N 52KS3 or P/N 4852SS305 and/or correct the clamp torque to 20 to 25 inch pounds. Return airplane to service and do a leak check following Part 1 of the Accomplishment Instructions in Beechcraft Mandatory Service Bulletin SB 28–4127, dated June 2013.

(2) *For Model G58 airplanes, SNs TH–2335, TH–2338 through TH–2348, TH–2351 through TH–2359, TH–2362 through TH–2366, TH–2369, and TH–2371 that are not in compliance with Part 1 of the Accomplishment Instructions in Beechcraft Mandatory Service Bulletin SB 28–4127, dated June 2013:* Within 100 hours TIS after February 9, 2015 (the effective date of this AD) or within the next 12 months after February 9, 2015 (the effective date of this AD), whichever occurs first, do the following actions in paragraphs (h)(2)(i) through (h)(2)(iii) of this AD, including all subparagraphs.

(i) Inspect the fuel cell system following Part 1 of the Accomplishment Instructions in Beechcraft Mandatory Service Bulletin SB 28–4127, dated June 2013.

(ii) If any discrepancies are found in the inspection required in paragraph (h)(2)(i) of this AD, before further flight, replace/correct those discrepancies following Part 1 of the Accomplishment Instructions in Beechcraft Mandatory Service Bulletin SB 28–4127, dated June 2013. If the corrective action requires replacement of one of the fuel cells, replace the fuel cell with Beechcraft Corporation P/N 60–921046–1, 60–921046–2, 002–920034–1, 002–920034–2, 58–380003–5, or 58–380003–6, as applicable.

(iii) During the inspection required in paragraph (h)(2)(i) of this AD, ensure that wet wing interconnect tube P/N 60–921047–1 is installed in the leading edge outboard fuel cell with clamp P/N 52KS3 or P/N

4852SS305 and the clamp is torqued to 20 to 25 inch pounds.

(A) If you can positively identify the wet wing interconnect tube is installed with the correct clamp and the correct torque value during the inspection required in paragraph (h)(2)(iii) of this AD, return airplane to service and perform leak check following Part 1 of the Accomplishment Instructions in Beechcraft Mandatory Service Bulletin SB 28–4127, dated June 2013.

(B) If you cannot positively identify the wet wing interconnect tube is installed with the correct clamp and/or the correct torque value during the inspection required in paragraph (h)(2)(iii) of this AD, before further flight, replace the clamp with P/N 52KS3 or P/N 4852SS305 and/or correct the clamp torque to 20 to 25 inch pounds. Return airplane to service and do leak check following Part 1 of the Accomplishment Instructions in Beechcraft Mandatory Service Bulletin SB 28–4127, dated June 2013.

(3) *For Model G58 airplanes SNs TH–2336, TH–2337, TH–2349, TH–2350, TH–2360, TH–2361, TH–2367, TH–2368, TH–2370, TH–2372, and TH–2373:* Within 100 hours TIS after February 9, 2015 (the effective date of this AD) or within the next 12 months after February 9, 2015 (the effective date of this AD), whichever occurs first, inspect the fuel system following Part 2 of the Accomplishment Instructions in Beechcraft Mandatory Service Bulletin SB 28–4127, dated June 2013. If any discrepancies are found, before further flight, replace/correct those discrepancies following Part 2 of the Accomplishment Instructions in Beechcraft Mandatory Service Bulletin SB 28–4127, dated June 2013.

(i) Special Flight Permit

Special flight permits are permitted in accordance with 14 CFR 39.23 provided the following limitation is adhered to: One flight to a repair facility.

(j) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Wichita Aircraft Certification Office (ACO) (for the Beechcraft parts), FAA, or the Manager, Atlanta ACO (for the FFC PMA parts), FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the ACO, send it to the attention of the person identified in paragraph (k) of this AD.

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

(k) Related Information

(1) For information relating to Beechcraft Corporation Model G58 airplanes or part numbers contact: Thomas Teplik, Aerospace Engineer, Wichita ACO, FAA, 1801 Airport Road, Room 100, Wichita, Kansas 67209; phone: (316) 946–4196; fax: (316) 946–4107; email: *thomas.teplik@faa.gov.*

(2) For information relating to FFC PMA fuel cells contact: Keith Moore, Atlanta ACO, FAA, 1701 Columbia Avenue, College Park, Georgia 30337; telephone: (404) 474–5517; fax: (404) 474–5500; email: *keith.moore@faa.gov.*

(3) For service information identified in this AD, contact Beechcraft Corporation, 2121 South Hoover Road, Wichita, Kansas 67209; telephone: (316) 676–3140; fax: (316) 676–8027; email: *Piston_support@txtav.com;* Internet: *www.beechcraft.com.* You may review copies of the referenced service information at the FAA, Small Airplane Directorate, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148.

(l) Material Incorporated by Reference

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

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

(i) Beechcraft Corporation Beechcraft Mandatory Service Bulletin SB 28–4127, dated June 2013.

(ii) Beechcraft Corporation Beechcraft Mandatory Service Bulletin SB 28–4131, dated November 2013.

(3) For Beechcraft Corporation service information identified in this AD, contact Beechcraft Corporation, 2121 South Hoover Road, Wichita, Kansas 67209; telephone: (316) 676–3140; fax: (316) 676–8027; email: *Piston_support@txtav.com;* Internet: *www.beechcraft.com.*

(4) You may view this service information at the FAA, Small Airplane Directorate, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148.

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

Appendix 1 to AD 2014–26–05

For Model G58 Airplanes Serial Numbers TH–2356 Through TH–2359, TH–2362 Through TH–2366, TH–2369, and TH–2371 That Have Already Completed Beechcraft Mandatory Service Bulletin SB 28–4131, Dated November 2013, but Have Not Completed Part 1 of Beechcraft Mandatory Service Bulletin SB 28–4127, Dated June 2013

The information in the appendix cannot be used for direct compliance with the AD. All of the actions in paragraphs (g) and (h) of this AD must be completed for compliance with this AD. The following is a suggested order of tasks that may assist the mechanic in completing overlapping tasks associated with Beechcraft Mandatory Service Bulletin SB 28–4131, dated November 2013, and Part 1 of Beechcraft Mandatory Service Bulletin SB 28–4127, dated June 2013.

Suggested Order of Tasks

1. Do steps (1) through (6) and (6)(a) through (6)(d) (Outboard Wet Wing Interconnect Area) of Part 1 of the Accomplishment Instructions in Beechcraft Mandatory Service Bulletin SB 28–4127. Ensure that wet wing interconnect tube part number (P/N) 60–921047–1 is installed in the leading edge outboard fuel cell with the correct clamp P/N 52KS3 or P/N 4852SS305 and the clamp is correctly torqued to 20 to 25 inch pounds. Note: For step (6)(d) of Part 1 of the Accomplishment Instructions in Beechcraft Mandatory Service Bulletin SB 28–4127, the access panels may need to be removed again for additional tasks listed below.

2. For any fuel cells that were not replaced while doing Beechcraft Mandatory Service Bulletin SB 28–4131, inspect by doing step (7) (Inspection at Three Fuel Cells) of Part 1 of the Accomplishment Instructions in Beechcraft Mandatory Service Bulletin SB 28–4127.

3. If any of the fuel cells are found damaged or leaking during the inspection, replace with fuel cells listed in Beechcraft Mandatory Service Bulletin SB 28–4131.

4. Do steps (8) through (25) (Inspection of Wheel Well and Nacelle Area) of Part 1 of the Accomplishment Instructions in Beechcraft Mandatory Service Bulletin SB 28–4127.

Appendix 2 to AD 2014–26–05

For Model G58 Airplanes Serial Numbers TH–2356 Through TH–2359, TH–2362 Through TH–2366, TH–2369, and TH–2371 That Have Not Completed Beechcraft Mandatory Service Bulletin SB 28–4131, Dated November 2013, and Have Not Completed Part 1 of Beechcraft Mandatory Service Bulletin SB 28–4127, Dated June 2013

The information in the appendix cannot be used for direct compliance with the AD. All of the actions in paragraphs (g) and (h) of this AD must be completed for compliance with this AD. The following is a suggested order of tasks that may assist the mechanic in completing overlapping tasks associated with Beechcraft Mandatory Service Bulletin SB 28–4131, dated November 2013, and Part 1 of Beechcraft Mandatory Service Bulletin SB 28–4127, dated June 2013.

Suggested Order of Tasks

1. Do steps (1)(a) through (1)(e) of the Accomplishment Instructions in Beechcraft Mandatory Service Bulletin SB 28–4131. This can be done concurrently with steps 1 through 5 of the Accomplishment Instructions in Beechcraft Mandatory Service Bulletin SB 28–4127 Part 1.

2. Do steps (6) and (6)(a) through (6)(d) (Outboard Wet Wing Interconnect Area) of Part 1 of the Accomplishment Instructions in Beechcraft Mandatory Service Bulletin SB 28–4127. Ensure that wet wing interconnect tube part number (P/N) 60–921047–1 is installed in the leading edge outboard fuel cell with the correct clamp P/N 52KS3 or P/N 4852SS305 and the clamp is correctly torqued to 20 to 25 inch pounds.

Note: For step (6)(d) of Part 1 of the Accomplishment Instructions in Beechcraft

Mandatory Service Bulletin SB 28–4127, the access panels may need to be removed again for additional tasks listed below.

3. Do step (1)(f) of the Accomplishment Instructions in Beechcraft Mandatory Service Bulletin SB 28–4131.

4. If it has been determined by doing step 1(f) of Beechcraft Mandatory Service Bulletin SB 28–4131, that any of the following correct fuel cells P/Ns 60–921046–1, 60–921046–2, 002–920034–1, 002–920034–2, 58–380003–5, or 58–380003–6 are installed in the airplane, do steps (7)(a) through (7)(c) (Inspection at Three Fuel Cells) of Part 1 of the Accomplishment Instructions in Beechcraft Mandatory Service Bulletin SB 28–4127. These steps ensure P/Ns 60–921046–1, 60–921046–2, 002–920034–1, 002–920034–2, 58–380003–5, or 58–380003–6 is properly installed.

5. If it has been determined by doing step 1(f) of Beechcraft Mandatory Service Bulletin SB 28–4131, that any of the following fuel cell P/Ns 60–921046–5, 60–921046–6, 002–920034–9, 002–920034–10, 58–380003–13, or 58–380003–14 or PMA part numbers B–2503–9/–10, B–2034–3/–4, or B–2646–3/–4 are installed in the airplane, do steps (2) through (5) of the Accomplishment Instructions in Beechcraft Mandatory Service Bulletin SB 28–4131. These steps ensure improperly fitting fuel cells are removed from the airplane. Do steps (7)(a) through (7)(c) (Inspection at Three Fuel Cells) of Part 1 of the Accomplishment Instructions in Beechcraft Mandatory Service Bulletin SB 28–4127. For any fuel cell that needs replacing, replace with fuel cells listed in Beechcraft Mandatory Service Bulletin SB 28–4131.

6. Do step (7)(d) of Part 1 of the Accomplishment Instructions in Beechcraft Mandatory Service Bulletin SB 28–4127. This step can be done concurrently with step (5) of the Accomplishment Instructions in Beechcraft Mandatory Service Bulletin SB 28–4131.

7. Do steps (8) through (25) (Wheel Well and Nacelle Area and Final Check) of Part 1 of the Accomplishment Instructions in Beechcraft Mandatory Service Bulletin SB 28–4127.

8. Do steps (6) through (10) of the Accomplishment Instructions in Beechcraft Mandatory Service Bulletin SB 28–4131.

Note: Steps (21), (24), and (25) from task 7 and steps (8), (9), and (10) from task 8 can be done concurrently.

Appendix 3 to AD 2014–26–05

For Model G58 Airplanes Serial Numbers TH–2360, TH–2361, TH–2367, TH–2368, TH–2370, TH–2372, and TH–2373 That Have Not Completed Beechcraft Mandatory Service Bulletin SB 28–4131, Dated November 2013 and Have Not Completed Part 2 of Beechcraft Mandatory Service Bulletin SB 28–4127, Dated June 2013

The information in the appendix cannot be used for direct compliance with the AD. All of the actions in paragraphs (g) and (h) of this AD must be completed for compliance with this AD. The following is a suggested order of tasks that may assist the mechanic in completing overlapping tasks associated with Beechcraft Mandatory Service Bulletin SB 28–4131, dated November 2013, and Part 2 of Beechcraft Mandatory Service Bulletin SB 28–4127, dated June 2013.

Suggested Order of Tasks

1. Do steps (1) through (5) of the Accomplishment Instructions in Beechcraft Mandatory Service Bulletin SB 28–4131.
2. Do steps (7) and (8) of the Accomplishment Instructions in Beechcraft Mandatory Service Bulletin SB 28–4131.
3. Do steps (1) through (6) of Part 2 of the Accomplishment Instructions in Beechcraft Mandatory Service Bulletin SB 28–4127. For step (2), heat shields should have been previously removed for Beechcraft Mandatory Service Bulletin SB 28–4131.
4. Do steps (7) through (11) of Part 2 of the Accomplishment Instructions in Beechcraft Mandatory Service Bulletin SB 28–4127.
5. Do steps (6), (9), and (10) of the Accomplishment Instructions in Beechcraft Mandatory Service Bulletin SB 28–4131.

Note: Steps (9) and (10) from task 5 and steps (10), and (11) from task 4 can be done concurrently.

Issued in Kansas City, Missouri, on December 22, 2014.

Robert Busto,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2014–30490 Filed 1–2–15; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Office of the Secretary

14 CFR Part 251

[Docket No. DOT–OST–2014–0231]

RIN 2105–AE37

Carriage of Musical Instruments

AGENCY: Office of the Secretary (OST), Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: The Department of Transportation is issuing a final rule to implement section 403 of the FAA Modernization and Reform Act of 2012 regarding the carriage of musical instruments as carry-on baggage or checked baggage on commercial passenger flights operated by air carriers. This rule responds to difficulties musicians have encountered when transporting their instruments during air travel.

DATES: *Effective Date:* This rule is effective March 6, 2015.

FOR FURTHER INFORMATION CONTACT: Clereece Kroha or Blane A. Workie, Office of the Assistant General Counsel for Aviation Enforcement and Proceedings, U.S. Department of Transportation, 1200 New Jersey Ave. SE., Washington, DC 20590, 202–366–9342 (phone), 202–366–7152 (fax), *clereece.kroha@dot.gov* or *blane.workie@dot.gov* (email).

SUPPLEMENTARY INFORMATION:

Background

On February 14, 2012, the FAA Modernization and Reform Act of 2012 (the Act) was signed into law. Section 403 of the Act requires U.S. air carriers to accept musical instruments on their passenger flights either as carry-on baggage or checked baggage, provided that certain conditions are met. The passage of Section 403 is Congress' response to difficulties musicians have encountered when transporting their instruments during air travel. The statute directs the Department of Transportation (Department or DOT) to issue a final rule to implement the requirements set forth in section 403.

During the past year, the Department has been engaged in dialogue with musicians as well as representatives of airlines and industry associations to address the difficulties musicians face when traveling by air with musical instruments. In July 2014, DOT Secretary Anthony Foxx hosted a ''Flying with Musical Instruments'' meeting to provide airline representatives, musicians, and government officials an opportunity to exchange ideas on ways to prevent or resolve difficulties encountered by musicians when flying with their instruments while still ensuring the safety of passengers and crew. At the meeting, several members of various musician organizations described problems that musicians encounter when traveling by air with their musical instruments, particularly when bringing instruments as carry-on baggage. Airline representatives in attendance described their policies for transport of musical instruments as carry-on or checked baggage. Many airlines have already adopted policies concerning the air transportation of musical instruments that mirror the requirements in Section 403 of the Act. The stakeholders recognized that, while most airlines' current policies regarding musical instruments are consistent with the statute, frontline customer service agents and flight crew may not always be well-versed in those policies and may not communicate those policies accurately and effectively to musicians. By the same token, the meeting attendees also agreed that many musicians were not very well informed about airline policies regarding transporting musical instruments or about the measures they can take to

better prepare themselves to ensure that the transport goes smoothly.

Since then, the stakeholders have voluntarily taken certain steps to better understand the extent of the problem and prevent or minimize confusion over musical instruments as carry-on baggage. The American Federation of Musicians (AFM) has shared with the airline industry a survey it conducted among its members that identified problematic areas when traveling by air with instruments. Airlines for America (A4A), the trade organization for major U.S. airlines, established a page on its Web site that provides a summary of member airlines' baggage policy regarding musical instruments and links to each individual carrier's Web page for that information. The Department has created a Web page providing useful tips and information for consumers on how to prepare for air travel with musical instruments. The Department also convened a follow-up meeting in September 2014, and may conduct additional such meetings to further explore problems facing musicians when traveling by air that are not specifically addressed by the statute. This cooperation between musician organizations and airline representatives as a parallel approach to the Department's rulemaking may achieve the optimal result of ensuring the safe transport of musical instruments by air and increasing efficiency and customer satisfaction.

Provisions of the Final Rule

Covered Entities and Flights

Section 403 of the Act covers ''[a]n air carrier providing air transportation.'' According to the definition in 49 U.S.C. 40102(a)(2), ''air carrier'' means a citizen of the United States undertaking by any means, directly or indirectly, to provide air transportation. 49 U.S.C. 40102(a)(5) provides that ''air transportation'' includes foreign air transportation or interstate air transportation. Those terms in turn are defined in 49 U.S.C. 40102(a) to mean the transportation of passengers or property by aircraft as a common carrier for compensation. Thus, this final rule implementing Section 403 covers all U.S. certificated and commuter carriers, as well as air taxis operating under exemption authority, that provide air transportation to the public directly, regardless of the size of the aircraft they operate, and all indirect carriers such as public charter operators. It covers the scheduled and charter flights operated by these carriers in domestic or international air transportation. This final rule covers public charter operators only to the extent the public charter operator at issue handles checked and carry-on baggage acceptance for the flight. In this situation, if the carriage of a musical instrument is consistent with the Federal Aviation Administration (FAA)-approved carry-on baggage or checked baggage program of the direct air carrier operating a public charter flight and there is room for the instrument at the time the passenger in question attempts to board, the public charter operator must accept the instrument as carry-on or checked baggage as appropriate.

Transport of Small Instruments as Carry-On Baggage

This rule requires that carriers must allow a passenger to carry into the cabin and stow a small musical instrument, such a violin or a guitar, in a suitable baggage compartment, such as the overhead bin or under the seats in accordance with FAA safety regulations. The FAA regulations require each carrier holding a Part 121 or Part 135 operating certificate to ensure that carry-on baggage is carried on board in accordance with an FAA-approved carry-on baggage program. See 14 CFR 121.285, 121.589, and 135.87. Further, in Advisory Circular (AC) 121–29B, FAA provides 11 categories of information that a carrier's carry-on baggage program must address, including a description of procedures a carrier will follow for stowage of ''unusual or fragile items'' (See AC 121–29B Section 4(e)(3)). Although not specifically referring to musical instruments, we believe this section is applicable to the transport of musical instruments as they tend to fall into the category of ''unusual or fragile items'' due to their size, shape, and nature. Section 4(e)(3) provides that if the crew cannot check or stow an unusual or fragile item in a manner that ensures the safety of the aircraft and its occupants, the passenger will have to ship that item by some other means. In complying with this final rule and accepting a passenger's musical instrument as carry-on baggage for stowage in an approved compartment or other specifically approved area in the cabin (*e.g.,* the overhead bin or under seats), we expect carriers to continue to follow their FAA-approved carry-on baggage programs to ensure the safety of the flight and the passengers and crew onboard. In addition, carriers should adequately inform passengers and the public about the limitations and restrictions imposed by these programs.

Section 403 of the Act and this final rule provide that carriers are required to allow passengers to stow their musical instruments in an approved stowage area in the cabin only if at the time the passenger boards the aircraft such stowage space is available. With the exception of certain disability assistance devices, overhead bins or under seat stowage space is available to all passengers and crew members for their carry-on baggage on a ''first come, first served'' basis. Accordingly, carriers are not required to remove other passengers' or crew members' carry-on baggage that is already stowed in order to make space for a musical instrument. However, this also means carriers are not allowed to require a passenger to remove his or her musical instrument that is already safely stowed (*e.g.,* in the overhead bin) to make room for carry-on baggage of other passengers who boarded the aircraft later than the passenger with the musical instrument. This is true even if the space taken by the musical instrument could accommodate one or more other carry-on items. Because the rule does not require that musical instruments be given priority over other carry-on baggage, we encourage passengers traveling with musical instruments to take steps to board before as many other passengers as possible to ensure that space will be available for them to safely stow their instruments in the cabin. This includes utilizing pre-boarding opportunities that some carriers offer (usually for a fee).

This rule also states that carriers are prohibited from charging passengers with a musical instrument as carry-on baggage an additional fee other than any standard fee carriers impose for carry-on baggage. By including such a requirement in the statute, Congress clearly meant to require carriers to treat musical instruments in the cabin as no different from other carry-on baggage. For example, many carriers' FAA-approved carry-on baggage programs permit one piece of carry-on baggage plus one personal item such as a purse or a briefcase. If the passenger with the musical instrument already has these two standard items and the musical instrument is the third carry-on item, that carrier may not permit the passenger to board the aircraft with a third carry-on item. As per Federal Aviation Regulations, no air carrier may allow a passenger to board the aircraft with more carry-on items than allowed in that carrier's FAA-approved carry-on baggage program. Any fees imposed by a carrier for any piece of carry-on baggage is also applicable to a musical instrument carried onboard. This would include a situation where a carrier's FAA-approved carry-on baggage program allows each passenger two

pieces of carry-on baggage but the airline charges a fee for a second piece. If a passenger with a musical instrument already has one piece of (free) carry-on baggage, the airline is permitted to charge its standard fee for a second piece of carry-on baggage even if the second piece is a musical instrument.

Transporting Large Instruments as Carry-On Baggage

For some musical instruments that are too large to fit in the cabin stowage areas described in the carrier's FAA-approved carry-on baggage program (*e.g.,* an overhead bin or under a seat), it is sometimes possible to secure them to a seat as ''seat baggage'' or ''cargo in passenger cabin'' as regulated by 14 CFR 121.285. As FAA Advisory Circular 121–29B: Carry-On Baggage (AC121–29B) and relevant FAA safety regulations do not mandate that a carrier must allow in their carry-on baggage programs the stowage of a large carry-on item on a passenger seat, we do not require in this final rule that those carriers whose programs do not provide such stowage amend their programs to allow it.

We do, however, encourage these carriers to consider modifying their programs to allow the stowage of large musical instruments at passenger seats, provided that all safety requirements are met. Some of the safety requirements have already been incorporated in Section 403 and this final rule, such as the requirement that the instrument must be contained in a case or covered as to avoid injury to other passengers, and the requirement that the instrument including the case or covering cannot exceed 165 pounds or the applicable weight restriction for the aircraft. Other safety requirements contained in FAA regulations that carriers must follow when transporting a musical instrument at a seat include that the item is restrained to the inertia forces in 14 CFR 25.561; it is properly secured by a safety belt or other tie down having enough strength to eliminate the possibility of shifting under all normally anticipated flight and ground conditions; it does not impose any load on seats or the floor structure that exceeds the load limitation for those components; its location does not restrict access to or use of any required emergency or regular exit, or of the aisle in the passenger compartment; and its location does not obscure any passenger's view of the ''seat belt'' sign, ''no smoking'' sign, or required exit sign, unless an auxiliary sign or other approved means for proper notification of the passenger is provided. See 14 CFR 121.285(c) and 14 CFR 135.87(c). Also, when assigning a seat that will be used to transport a musical instrument as cargo in the passenger cabin, carriers must not assign a seat where the instrument may obscure other passengers' view of safety signs that are required to remain visible. In the event a passenger purchases a seat for his or her musical instrument and it is later discovered that the location of the assigned seat is such that the musical instrument may obscure other passengers' view of the ''seat belt'' sign, ''no smoking'' sign, or required exit signs, carriers should work with the passenger to determine if any other available seat in that class of service can safely accommodate the musical instrument.

Because carriers must comply with a number of safety requirements, we encourage passengers purchasing a seat for a large musical instrument to provide advance notice to the carrier that the seat is being purchased to transport an instrument and to follow that carrier's policies regarding the transportation of the musical instrument in the cabin. Carriers whose carry-on baggage programs allow such stowage should ensure that their reservation agents and airport agents are trained to provide appropriate seat assignments to the passenger and the instrument to ensure compliance with safety requirements, and that their crews are trained and have the appropriate restraining device for securing the instrument to the seat.

With respect to the cost to a passenger to transport a musical instrument on a passenger seat, assuming all of the safety requirements are met, carriers cannot charge the passenger more than the price of a ticket for the additional seat—for example, by adding on a fee specifically for transporting a musical instrument. However, this does not preclude carriers from charging standard ancillary service fees. For example, to the extent carriers charge a fee for an advance seat assignment, and the passenger requests advance seat assignments for him or herself and for the instrument, the carrier may charge the advance seat assignment fee for each seat assignment.

Transporting Large Instruments as Checked Baggage

As mandated by the Act, this rule requires carriers to accept musical instruments in the cargo compartment as checked baggage if those instruments comply with the size and weight limitations provided in Section 403 and FAA's safety regulations. As Section 403 is silent on the charges carriers may impose on transporting musical instruments in the cargo compartment, and we recognize that carriers' cost in transporting baggage and cargo is directly related to its size and weight, consistent with the clear intent of the Act, we conclude that carriers may impose the same checked-baggage charges that apply to other checked baggage of that size and weight. If a musical instrument exceeds the size or weight limits in the carrier's free baggage allowance but does not exceed the size or weight limits of Section 403, the carrier may assess the same over-size and over-weight charges that are applicable to other checked baggage that is over-size or over-weight.

Good Cause for Issuing Rule Without Prior Notice and Comment

Section 553 of the Administrative Procedure Act (5 U.S.C. 553) provides that when an agency, for good cause, finds that notice and public procedure are impractical, unnecessary, or contrary to the public interest, the agency may issue a final rule without providing notice and an opportunity for public comment (5 U.S.C. 553(b)(B)). The Department has determined that there is good cause to issue this final rule without notice and an opportunity for public comment because such notice and comment would be unnecessary. This rule implements Section 403 of the FAA Modernization and Reform Act by incorporating the statutory language virtually verbatim and without interpretation. Since the Department is exercising no discretion in issuing this rule, public comment is unnecessary.

Regulatory Analyses and Notices

A. Executive Order 12866 (Regulatory Planning and Review) and DOT Regulatory Policies and Procedures

The Department has determined that this action is not a significant regulatory action within the meaning of Executive Order 12866, and within the meaning of the Department of Transportation's regulatory policies and procedures. The Department is issuing a final rule to implement section 403 of the FAA Modernization and Reform Act of 2012 (Pub. L. 112–95, 49 U.S.C. 41724) regarding the carriage of musical instruments as carry-on baggage or checked baggage on commercial passenger flights operated by air carriers. In this section, we present information on current carrier policies about transporting musical instruments, provide data on various categories of beneficiaries from the rule, and estimate the costs to U.S. carriers to modify or develop instrument policies that comply with rule requirements.

Current Carrier Policies

Currently, most large U.S. carriers post specific policies on musical instrument carriage on their Web sites. We reviewed these policies and found that the specific size (length plus width plus height) and weight limitations for instruments carried as checked baggage vary substantially among carriers with published policies. Some carriers have maximum case size limits—typically combined dimensions of 115'', although one carrier allows cases with maximum dimensions of 126''. The threshold size for oversized baggage charges varies from 62'' to 90'', depending on the carrier. Maximum weight limits for checked baggage also vary from 70 to 100 pounds among large U.S. carriers with stated weight limits. However, there are several carriers that post policies without specified limits on case size or weight.

Case dimensions and instrument plus case weights were compiled from Amazon.com and other Web sites to assess the extent to which current policies would potentially bar musicians from traveling with certain types of instruments. Hard cases for tubas exceed the 90'' combined dimensions, a threshold at which some carriers charge for oversize baggage, but they are typically under the 115'' size that some carriers have established as the current maximum allowable size for checked baggage. Cases for (stringed) double basses are larger than the 115'' size limit, and these instruments may also be sufficiently large to preclude them from being flown as carry-on baggage in a separately purchased seat. It therefore appears that nearly all large U.S. carriers would need to modify their current instrument transport policies to take into account the Act's and rule's requirements.

While individual musicians and smaller groups are likely to travel most frequently on scheduled flights, larger ensembles and orchestras may find it more efficient to travel together on chartered flights. None of the largest U.S. charter carriers post specific policies about musical instruments or, for the most part, general baggage policies, on their Web sites.

Benefits

Beneficiaries of the rule would include professional and amateur musicians who travel with instruments, particularly large instruments that may be subject to more restrictive transportation limits under current carrier policies. Increased ability of these musicians to travel with their instruments could also potentially benefit owners and employees of establishments hosting musical events and people who attend events at which these musicians would be more likely to be able to play.

Estimates of the numbers of professional musicians employed by others are available from the May 2013 BLS Occupational Employment Survey (OES), the 2012 Economic Census, and the 2011 Statistics of U.S. Business (SUSB). The May 2013 OES data indicate that there were 39,260 professional musicians and singers with mean hourly wage of $32.10. Wage data from the OES and payroll data from the OES Census and SUSB are consistent with a daily wage of between $211 and $257, assuming that the average musician performs approximately 180 days annually. Aggregate earnings for professional musicians employed by others are estimated at about $1.5 billion annually. It would be reasonable to assume that professional musicians travel by air at the same rate as the general flying public—an average of 1–2 round trips per year—but there are no data on the distribution of instruments that musicians currently transport or would like to be able to transport on these trips.[1]

A broader measure of the number of professional musicians is available from the Current Population Survey (CPS), which includes self-employed and part-time workers in its estimate of ''musicians, singers, and related workers.'' Assuming that the share of related workers (music composers and directors) is the same as in the OES data, there were approximately 127,000 employed musicians in 2013.

The monetary value of the benefit that a professional musician would receive from consistent carrier policies that comply with the rule could not be estimated. This value depends on at least three factors that could not be quantified:

1. The distribution of instrument played by professional musicians.
2. The extent to which musicians currently encounter difficulties in carrying or checking instruments on the carriers and routes he or she wishes to travel on.
3. The extent to which any loss of income from not being able to perform at events that require air travel could be mitigated by additional performances at destinations or facilities for which instrument transportation is not a problem.

Amateur musicians would also benefit from the proposed rule. This group includes a large number of school age children and their music teachers. School age children who play instruments could reasonably be expected to travel with them if possible—both to perform at out-of-town events and on trips to visit family members. The National Center for Education Statistics Schools and Staffing Survey (SASS) estimates that there were nearly 117,000 public school teachers whose primary assignment was music instruction during the 2011–2012 school year. The number of children who play musical instruments was estimated by assuming that half of these teachers are instrumental music teachers and that each of them teaches an average of 100 students each week. Under these assumptions, there are approximately 5.8 million school age children who play musical instruments.[2] However, it is not possible to monetize the value of the additional practice and performance time that school age musicians may be able to have if their ability to transport instruments by air is enhanced under the rule requirements.

Costs

The rule would require most covered carriers with specific policies about transportation of musical instruments to modify these policies to comply with the rule requirements; update written, electronic, and phone guidance provided to customers; and ensure that gate agents, flight crews, and baggage handlers are aware of these requirements. Covered carriers that do not currently have policies for the transportation of musical instruments would have to develop policies that comply with the rule requirements; prepare materials on these policies in written and electronic form; and train employees about these requirements.

Carriers routinely update their baggage fees and policies, as well as other aspects of their customer service plans. Costs for developing or revising customer service plans (CSPs) were estimated for a 2011 rule (''Enhancing Airline Passenger Protections II''). The

[1] It is likely that musicians with relatively compact instruments—*e.g.,* violins, woodwinds—encounter fewer difficulties in transporting instruments by air than do those who play larger instruments, particularly acoustic guitars, cellos, string basses, and tubas. We have assumed for this analysis that the rule requirements would not be sufficient to facilitate air transportation of especially large or heavy instruments such as harps, vibraphones, and tympani.

[2] This estimate does not include private school students and children who receive private group or individual lessons but do not have instrumental music classes in public schools. It also does not take into account the proportion of students who play piano and other instruments that carriers would not be responsible for transporting under the rule.

accompanying regulatory evaluation estimated that it would cost large carriers with existing service plans an average of $35,000 to develop compliant CSPs. Per-firm costs for smaller carriers—many of which did not have formal CSPs at the time the rule was promulgated—were estimated at about $4,000 per firm. Based on tabulations from the BTS T–100 data for 2013 and our review of carrier Web site information, there are 12 large carriers that currently have specific musical instrument carriage plans and 86 other U.S. carriers that have less specific or no specific policies about transporting musical instruments. Using the per-carrier cost estimates from the previous regulatory evaluation, modifying or developing musical instrument carriage policies is expected to cost about $732,000.

Counter agents, gate agents, and baggage acceptance personnel will need to be informed of the new requirements, and periodic reminders or audits may need to be conducted to ensure compliance with compliant musical instrument transportation policies. Because only larger carriers are required to file employment information with the BTS on form P–10, data on industry employment was obtained from the 2013 BLS OES. Four categories of employees appear to be most likely to require training on compliant musical instrument transportation policies:

- Baggage and gate operations managers
- Counter and gate agents
- First-line supervisors of these agents
- Baggage acceptance clerks and handlers

However, each of these groups of employees is included within a more general occupational category of employees, most of whom would not require specific training or communication about modified or newly developed musical instrument policies. Based on experience from previous regulatory evaluations, Econometrica developed estimates of the share of each of the four relevant categories of employees from the OES data who would need training. Each of these employees was assumed to require an average of 1 hour of training annually to ensure that they understand and comply with the rule requirements. Training time was valued at the average annual wage rates for each of these four labor categories.[3]

Based on the calculations shown in the table below, we estimate that the annual cost of this training for 98 affected U.S. carriers would be $474,000.

TABLE—ESTIMATED ANNUAL TRAINING COST FOR U.S. CARRIERS

BLS occupational category	Total employees	Percent with passenger baggage handling responsibilities	Employees requiring training *	Hourly wage	Annual training cost **
General and Operations Managers	11,110	10	1,111	$55.34	$61,483
Reservation Agents and Ticket Clerks	88,390	20	17,678	17.77	314,138
First-Line Supervisors	9,820	10	982	26.58	26,102
Laborers and Material Movers	22,880	20	4,576	15.80	72,301
Total	132,200		24,347		474,023

* Econometrica, Inc. estimates.
** Assumes one hour of training per employee required annually.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires an agency to review regulations to assess their impact on small entities unless the agency determines that a rule is not expected to have a significant economic impact on a substantial number of small entities. However, when notice and comment rulemaking is not necessary, the provisions of the Regulatory Flexibility Act do not apply. Nevertheless, the Department has evaluated the effects of this action on small entities and has determined that the action will not have a significant economic impact on a substantial number of small entities. The regulatory requirements imposed by this final rule cover some small entities, but the requirements will not have a significant impact on them because the rule does not require any carrier to modify its FAA-approved carry-on baggage program if that program does not already provide for accepting musical instruments as ''cargo in passenger compartment'' and to be stowed in a passenger seat. Further, the additional requirements of the rule, such as transporting small musical instruments on the same terms as other carry-on bags, and transporting large musical instruments in seats or as checked baggage for the same fees that are charged to other passengers, do not impose significant costs on carriers. There may also be costs associated with training airline personnel to ensure that they understand these requirements and adhere to them but these costs are not significant. For these reasons, I hereby certify that this rule will not have a significant economic impact on a substantial number of small entities.

C. Executive Order 13132 (Federalism)

This final rule has been analyzed in accordance with the principles and criteria contained in Executive Order 13132 (''Federalism''). This final rule does not include any provision that: (1) Has substantial direct effects on the States, the relationship between the national government and the States, or the distribution of power and responsibilities among the various levels of government; (2) imposes substantial direct compliance costs on State and local governments; or (3) preempts State law. States are already preempted from regulating in this area by the Airline Deregulation Act, 49 U.S.C. 41713. Therefore, the consultation and funding requirements of Executive Order 13132 do not apply.

D. Executive Order 13084

This final rule has been analyzed in accordance with the principles and criteria contained in Executive Order 13084 (''Consultation and Coordination with Indian Tribal Governments''). Because this final rule does not significantly or uniquely affect the communities of the Indian Tribal governments or impose substantial direct compliance costs on them, the

[3] Flight attendants may also need to receive some communication and training about the modified or newly developed policies. However, the 2013 OES data do not report the number of flight attendants or their average hourly wage rates.

funding and consultation requirements of Executive Order 13084 do not apply.

E. National Environmental Policy Act

The Department has analyzed the environmental impacts of this action pursuant to the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321 *et seq.*) and has determined that it is categorically excluded pursuant to DOT Order 5610.1C, Procedures for Considering Environmental Impacts (44 FR 56420, Oct. 1, 1979). Categorical exclusions are actions identified in an agency's NEPA implementing procedures that do not normally have a significant impact on the environment and therefore do not require either an environmental assessment (EA) or environmental impact statement (EIS). *See* 40 CFR 1508.4. In analyzing the applicability of a categorical exclusion, the agency must also consider whether extraordinary circumstances are present that would warrant the preparation of an EA or EIS. *Id.* Paragraph 4.c.6.i of DOT Order 5610.1C covers ''actions relating to consumer protection, including regulations.''. The purpose of this rulemaking is to implement regulations regarding the carriage of musical instruments as carry-on baggage or checked baggage on commercial passenger flights operated by air carriers. The Department does not anticipate any environmental impacts, and there are no extraordinary circumstances present in connection with this rulemaking.

F. Paperwork Reduction Act

This final rule does not contain any new information collection and therefore is not subject to the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 49 U.S.C. 3501 *et seq.*).

G. Unfunded Mandates Reform Act

The Department has determined that the requirements of Title II of the Unfunded Mandates Reform Act of 1995 do not apply to this rule.

Issued this 29th day of December 2014, in Washington, DC.

Anthony R. Foxx,

Secretary of Transportation.

List of Subjects in 14 CFR Part 251

Air carriers, Consumer protection.

For the reasons set forth in the preamble, the Department amends 14 CFR Chapter II by adding a new part 251 to read as follows:

PART 251—CARRIAGE OF MUSICAL INSTRUMENTS

Sec.

251.1 Definitions.
251.2 Applicability.
251.3 Small musical instruments as carry-on baggage.
251.4 Large musical instruments as carry-on baggage.
251.5 Large musical instruments as checked baggage.

Authority: 49 U.S.C. 41724.

§ 251.1 Definitions.

As used in this part:

Certificated air carrier means a U.S. carrier holding a certificate issued under 49 U.S.C. 41102 to conduct passenger service or holding an exemption to conduct passenger operations under 49 U.S.C. 40109.

Commuter air carrier means a U.S. carrier that has been found fit under 49 U.S.C. 41738 and is authorized to carry passengers on at least five round trips per week on at least one route between two or more points according to a published flight schedule using small aircraft as defined in 14 CFR 298.2.

Covered carrier means a certificated carrier, a commuter carrier, an air taxi, or a U.S. indirect carrier operating to, from, or within the United States, conducting scheduled passenger service or public charter service.

FAA means the Federal Aviation Administration, an operating administration of the Department of Transportation.

Indirect carrier means a person not directly involved in the operation of an aircraft who sells air transportation services to the general public other than as an authorized agent of a carrier.

§ 251.2 Applicability.

This part applies to U.S. certificated air carriers, U.S. commuter air carriers, air taxis, and U.S. indirect carriers that operate passenger service to, from, or within the United States.

§ 251.3 Small musical instruments as carry-on baggage.

Each covered carrier shall permit a passenger to carry a violin, guitar, or other small musical instrument in the aircraft cabin, without charging the passenger a fee in addition to any standard fee that carrier may require for comparable carry-on baggage, if:

(a) The instrument can be stowed safely in a suitable baggage compartment in the aircraft cabin or under a passenger seat, in accordance with the requirements for carriage of carry-on baggage or cargo established by the FAA; and

(b) There is space for such stowage at the time the passenger boards the aircraft.

§ 251.4 Large musical instruments as carry-on baggage.

Each covered carrier shall permit a passenger to carry a musical instrument that is too large to meet the requirements of § 251.3 in the aircraft cabin, without charging the passenger a fee in addition to the cost of an additional ticket described in paragraph (e) of this section, if:

(a) The instrument is contained in a case or covered so as to avoid injury to other passengers;

(b) The weight of the instrument, including the case or covering, does not exceed 165 pounds or the applicable weight restrictions for the aircraft;

(c) The instrument can be stowed in accordance with the requirements for carriage of carry-on baggage or cargo established by the FAA;

(d) Neither the instrument nor the case contains any object not otherwise permitted to be carried in an aircraft cabin because of a law or regulation of the United States; and

(e) The passenger wishing to carry the instrument in the aircraft cabin has purchased an additional seat to accommodate the instrument.

§ 251.5 Large musical instruments as checked baggage.

Each covered carrier shall transport as baggage a musical instrument that is the property of a passenger traveling in air transportation that may not be carried in the aircraft cabin if

(a) The sum of the length, width, and height measured in inches of the outside linear dimensions of the instrument (including the case) does not exceed 150 inches or the applicable size restrictions for the aircraft;

(b) The weight of the instrument does not exceed 165 pounds or the applicable weight restrictions for the aircraft; and

(c) The instrument can be stowed in accordance with the requirements for carriage of carry-on baggage or cargo established by the FAA.

[FR Doc. 2014–30836 Filed 1–2–15; 8:45 am]

BILLING CODE 4910–9X–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 9704]

RIN 1545–BK65

Failure To File Gain Recognition Agreements or Satisfy Other Reporting Obligations; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correcting amendment.

SUMMARY: This document contains corrections to final regulations (TD 9704) that were published in the **Federal Register** on Wednesday, November 19, 2014 (79 FR 68763) relating to the consequences to U.S. and foreign persons for failing to file gain recognition agreements (GRAs) or related documents, or to satisfy other reporting obligations, associated with certain transfers of property to foreign corporations in nonrecognition exchanges.

DATES: This correction is effective on January 5, 2015, and is applicable beginning November 19, 2014.

FOR FURTHER INFORMATION CONTACT: Shane M. McCarrick at (202) 317–6937 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The final regulations that are the subject of this document are under sections 367 and 6038B of the Internal Revenue Code.

Need for Correction

As published, final regulations (TD 9704) contain errors that may prove to be misleading and are in need of clarification.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Correction of Publication

Accordingly, 26 CFR part 1 is corrected by making the following correcting amendments:

PART 1—INCOME TAXES

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

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

■ **Par. 2.** Section 1.367(a)–8 is amended by revising the paragraph headings for paragraphs (r)(1) and (r)(1)(i) to read as follows:

§ 1.367(a)–8 Gain recognition agreement requirements.

* * * * *

(r) * * * (1) *General rule*—(i) *Transfers occurring on or after March 13, 2009; relief for certain failures that are not willful.* * * *

* * * * *

■ **Par. 3.** Section 1.367(e)–2 is amended by revising paragraph (e)(4)(i) introductory text to read as follows:

§ 1.367(e)–2 Distributions described in section 367(e)(2).

* * * * *

(e) * * *

(4) * * *

(i) *General rule.* For purposes of this section and except as provided in paragraph (b)(2)(i)(D) or (f) of this section, a failure to comply includes—

* * * * *

■ **Par. 4.** Section 1.6038B–1 is amended by revising paragraph (g)(6) to read as follows:

§ 1.6038B–1 Reporting of certain transfers to foreign corporations.

* * * * *

(g) * * *

(6) The second sentence of paragraph (b)(1)(i) and paragraphs (b)(2)(i)(B)(*1*), (b)(2)(iii), (b)(2)(iv), (c), (e)(4), (f)(2)(iii), and (f)(2)(iv) of this section will apply to transfers for which documents are required to be filed on or after November 19, 2014, as well as to transfers that are the subject of requests for relief submitted on or after November 19, 2014. The second sentence of paragraph (b)(1)(i) and paragraphs (b)(2)(i)(B)(*1*), (b)(2)(iii), (b)(2)(iv), (c), and (f)(2)(iii) of this section will also apply to any transfer that is the subject of a request for relief submitted pursuant to § 1.367(a)–8(r)(3).

Martin V. Franks,

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

[FR Doc. 2014–30811 Filed 1–2–15; 8:45 am]

BILLING CODE 4830–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 54

[WC Docket No. 13–184; FCC 14–99]

Modernization of the Schools and Libraries ''E-Rate'' Program

AGENCY: Federal Communications Commission.

ACTION: Final rule; announcement of effective date.

SUMMARY: On July 23, 2014, the Federal Communications Commission (Commission) released a document in (WC Docket No. 13–184, FCC 14–99; 79 FR 49160, August 19, 2014) which contained information collection requirements for the schools and libraries universal service mechanism (E-rate) which required approval from the Office of Management and Budget (OMB). The Office of Management and Budget (OMB) granted approval on October 27, 2014, under emergency processing for certain of the information collection requirements contained in the *Report and Order* as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3520).

DATES: The amendment to § 54.502(b)(2) that appeared in the **Federal Register** at 79 FR 49160 on August 19, 2014, and revised the information collection OMB 3060–0806 as approved by OMB, is effective January 5, 2015.

FOR FURTHER INFORMATION CONTACT: Lisa Hone, Wireline Competition Bureau at (202) 418–7400 or TTY (202) 418–0484.

SUPPLEMENTARY INFORMATION: The Federal Communications Commission has received OMB approval for the changes to E-rate rules contained in information collection OMB Control No: 3060–0806; Description of Services Requested and Certification; Description of Services Requested and Certification Instructions; Services Ordered and Certification; Services Ordered and Certification Instructions (FCC Form 470 and Instructions; FCC Form 471 and Instructions). The information collection was revised in the *Report and Order* and Further Notice of Proposed Rulemaking in WC Docket 13–184 which appears at 79 FR 49160, August 19, 2014. The rules adopted in the *Report and Order* that contain new or modified information collection requirements were not to become effective until approved by the Office of Management and Budget. Through this document, the Commission announces that it has received this approval (OMB Control No: 3060–0806, Expiration Date April 30, 2015) and that § 54.502(b)(2) is effective January 5, 2015.

Pursuant to the Paperwork Reduction Act of 1995, 44 U.S.C. 3501–3520, an agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. Notwithstanding any other provisions of law, no person shall be subject to any penalty for failing to comply with the collection of information subject to the Paperwork Reduction Act that does not display a valid control number. Questions concerning the OMB control numbers and expiration dates should be directed to Leslie F. Smith, Federal Communications Commission, (202)418–0217 or via the Internet at *Leslie.Smith@fcc.gov.*

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 2014–30775 Filed 1–2–15; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MB Docket No. 14–159, RM–11735; DA 14–1885]

Television Broadcasting Services; Dayton, Ohio

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: A petition for rulemaking was filed by WKEF Licensee, L.P. (''WKEF Licensee''), the licensee of WKEF(TV), channel 51, Dayton, Ohio, requesting the substitution of channel 18 for channel 51 at Dayton. WKEF Licensee filed comments reaffirming its interest in the proposed channel substitution and explained that the channel substitution will eliminate any potential interference with wireless operations in the Lower 700 MHZ A Block located adjacent to channel 51 in Dayton. WKEF Licensee further states that it will promptly file an application for a construction permit for channel 18 and place the station into operation.

DATES: Effective January 5, 2015.

FOR FURTHER INFORMATION CONTACT: Joyce Bernstein, *Joyce.Bernstein@fcc.gov,* Media Bureau, (202) 418–1647.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Report and Order,* MB Docket No. 14–159, adopted December 23, 2014, and released December 23, 2014. The full text of this document is available for public inspection and copying during normal business hours in the FCC's Reference Information Center at Portals II, CY–A257, 445 12th Street SW., Washington, DC 20554. This document will also be available via ECFS (*http://fjallfoss.fcc.gov/ecfs/*). This document may be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., 445 12th Street SW., Room CY–B402, Washington, DC 20554, telephone 1–800–478–3160 or via the company's Web site, *http://www.bcpiweb.com.* To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an email to *fcc504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (tty).

This document does not contain information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104–13. In addition, therefore, it does not contain any information collection burden ''for small business concerns with fewer than 25 employees,'' pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4). Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

The Commission will send a copy of the *Report and Order* in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional review Act, *see* 5 U.S.C. 801(a)(1)(A).

List of Subjects in 47 CFR Part 73

Television.

Federal Communications Commission.

Hossein Hashemzadeh,

Deputy Chief, Video Division, Media Bureau.

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 73 as follows:

PART 73—RADIO BROADCAST SERVICES

■ 1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334, 336, and 339.

§ 73.622 [Amended]

■ 2. Section 73.622(i), the Post-Transition Table of DTV Allotments under Ohio is amended by removing channel 51 and adding channel 18 at Dayton.

[FR Doc. 2014–30863 Filed 1–2–15; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

49 CFR Parts 192, 193, 195, 198, and 199

[Docket No. PHMSA–2011–0337; Amdt. Nos. 192–119; 193–25; 195–99; 198–6; 199–26]

RIN 2137–AE85

Pipeline Safety: Periodic Updates of Regulatory References to Technical Standards and Miscellaneous Amendments

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: PHMSA is amending the Federal pipeline safety regulations to incorporate by reference new, updated or reaffirmed editions of the voluntary consensus standards that are applicable to pipelines subject to the requirements of the Federal pipeline safety regulations. This final rule also makes non-substantive editorial corrections clarifying regulatory language in certain provisions. These changes are minor and do not require pipeline operators to undertake any significant new pipeline safety initiatives.

DATES: This final rule is effective March 6, 2015. The incorporation by reference of certain publications listed in this final rule is approved by the Director of the Federal Register as of March 6, 2015.

FOR FURTHER INFORMATION CONTACT:

Technical Information: Mike Israni by phone at 202–366–4571 or by email at *mike.israni@dot.gov.*

Regulatory Information: Cheryl Whetsel by phone at 202–366–4431 or by email at *cheryl.whetsel@dot.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

The National Technology Transfer and Advancement Act of 1995 (NTTAA) (Pub. L. 104–113; March 7, 1996) directs Federal agencies to use voluntary consensus standards and design specifications developed by voluntary consensus standard bodies instead of government-developed voluntary technical standards when appropriate. The Office of Management and Budget (OMB) Circular A–119, ''Federal Participation in the Development and Use of Voluntary Consensus Standards and in Conformity Assessment Activities,'' sets the policy for Federal use and development of voluntary consensus standards. As defined in OMB Circular A–119, voluntary consensus standards are technical standards developed or adopted by domestic and international organizations. These organizations use agreed-upon procedures to update and revise their published standards every three to five years to reflect modern technology and best technical practices.

The legal effect of incorporation by reference (IBR) is that the incorporated material is treated as if it were published in full in the **Federal Register** and the Code of Federal Regulations (CFR). This material, like any other properly issued rule, has the force and effect of law. Congress authorized incorporation by reference to reduce the volume of material published in the **Federal Register** and the CFR (see 5 U.S.C. 552(a) and 1 CFR part 51). Congress granted authority to the Director of the Federal Register to determine whether a proposed IBR serves the public interest. Unless

expressly provided otherwise in a regulation, if a provision of a standard incorporated by reference conflicts with a regulation, the regulation takes precedence.

New or updated standards often further innovation and increase the use of new technologies, materials and management practices that improve the safety and operations of pipelines and pipeline facilities. Because pipeline safety regulation involves a great deal of technical subject matter, there are 64 standards and specifications that have long been incorporated by reference in 49 CFR part 192, Transportation of Natural and Other Gas by Pipeline: Minimum Federal Safety Standards; 49 CFR part 193, Liquefied Natural Gas Facilities: Federal Safety Standards; and 49 CFR part 195, Transportation of Hazardous Liquids by Pipeline. PHMSA regularly reviews updates to currently referenced consensus standards as well as new editions of standards to ensure that their content remains consistent with the intent of the pipeline safety regulations. Previous updates to incorporate industry standards by reference were published on August 11, 2010 (75 FR 48593), February 1, 2007 (72 FR 4657), June 9, 2006 (71 FR 33402), June 14, 2004 (69 FR 32886), February 17, 1998 (63 FR 7721), June 6, 1996 (61 FR 2877), and May 24, 1996 (61 FR 26121). The list of publications that PHMSA has incorporated by reference is found in 49 CFR 192.7, 193.2013, and 195.3.

PHMSA employees participate in more than 25 national voluntary consensus standards-setting organizations that address pipeline design, construction, maintenance, inspection and repair. Agency participation in the development of voluntary consensus standards is important to eliminate the necessity for development or maintenance of separate, government-unique standards, to further national goals and objectives such as increased use of environmentally sound and energy-efficient materials, products, systems, services or practices and to improve public safety. As representatives of the agency, these subject matter experts actively participate in discussions and technical debates, register opinions and vote in accordance with the procedures of the standards body at each stage of the standards development process (unless prohibited from doing so by law). However, it is important to note that agency participation does not necessarily constitute agency agreement with, or endorsement of, all decisions reached by such organizations. PHMSA has the responsibility to establish regulations and standards that ensure pipelines are operated safely and will only adopt those portions of industry standards into the Federal regulations that meet the agency's goals and best promote public safety.

Availability of Materials to Interested Parties

PHMSA has worked to make the materials to be incorporated by reference reasonably available to interested parties. Section 24 of the ''Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011'' (Pub. L.112–90, January 3, 2012), amended 49 U.S.C. 60102 by adding a new public availability requirement for documents incorporated by reference after January 3, 2013. The law states: ''Beginning 1 year after the date of enactment of this subsection, the Secretary may not issue guidance or a regulation pursuant to this chapter that incorporates by reference any documents or portions thereof unless the documents or portions thereof are made available to the public, free of charge, on an Internet Web site.'' This section was further amended on August 9, 2013. The current law continues to prohibit the Secretary from issuing a regulation that incorporates by reference any document unless that document is available to the public, free of charge, but removes the Internet Web site requirements (Pub. L. 113–30, August 9, 2013). The Department of Transportation has until August 9, 2015, to comply with this provision.

Pursuant to this mandate, PHMSA has negotiated agreements with all but two of the standards-setting organizations with standards already incorporated by reference in the pipeline safety regulations to make viewable copies of those standards available to the public at no cost. The organizations having agreements are: American Petroleum Institute (API), American Gas Association (AGA), American Society for Testing and Materials (ASTM), Gas Technology Institute (GTI), Manufacturers Standardization Society of the Valve and Fittings Industry, Inc. (MSS), NACE International (NACE), and National Fire Protection Association (NFPA). Each organization's mailing address and Web site is listed in Parts 192, 193, and 195. PHMSA understands that the two standards organizations that we do not have agreements with are considering taking steps in addition to sales of the standards to achieve greater availability.

II. Summary Review of Standards and Amendments

On August 16, 2013, PHMSA published a notice of proposed rulemaking (NPRM) to incorporate into the pipeline safety regulations two new standards: API RP 5LT ''Recommended Practice for Truck Transportation of Line Pipe'' (First edition March 1, 2012); and ASTM D2513–09a,''Standard Specification for Polyethylene (PE) Gas Pressure Pipe, Tubing, and Fittings'' (December 1, 2009 (except section 4.2 pertaining to rework materials) and 21 updated editions of standards currently incorporated by reference. These standards affect gas pipelines, liquefied natural gas facilities and hazardous liquid pipelines (Parts 192, 193, and 195, respectively). The vast majority of the updated standard editions involve incremental changes in design, maintenance and operation provisions as additional knowledge is gained by stakeholders. With certain exceptions (API RP 1162, ''Public Awareness Programs for Pipeline Operators'' (1st edition, December 2003) discussed below, PHMSA believes that these updates are consistent with the Federal pipeline safety mission. In addition, the adoption of API RP 5LT addresses National Transportation Safety Board's (NTSB) Recommendation P–04–03.

A. Standards Incorporated

This final rule accepts the following updated editions of technical standards currently incorporated by reference in Parts 192, 193, and 195:

American Petroleum Institute

(1) API Recommended Practice 5L1, ''Recommended Practice for Railroad Transportation of Line Pipe'' (7th edition, September 2009), into 49 CFR 192.7, 192.65(a)(1), 195.3, 195.207(a).

[Replaces IBR: API Recommended Practice 5L1, ''Recommended Practice for Railroad Transportation of Line Pipe'' (6th edition, 2002).]

(2) API Recommended Practice 5LT, ''Recommended Practice for Truck Transportation of Line Pipe'' (First edition March 1, 2012), into 49 CFR 192.7, 192.65(c), 195.3, 195.207(c).

(3) API Recommended Practice 5LW, ''Transportation of Line Pipe on Barges and Marine Vessels'' (3rd edition, September 2009), into 49 CFR 192.7, 192.65(b), 195.3, 195.207(b).

[Replaces IBR: API Recommended Practice 5LW, ''Transportation of Line Pipe on Barges and Marine Vessels'' (2nd edition, December 1996, effective March 1, 1997).]

(4) ANSI/API Specification 5L, ''Specification for Line Pipe'' (45th edition, December 1, 2012, effective July 1, 2013), into 49 CFR 192.7; 192.55(e); 192.112(a)(4); 192.112(b)(1)(i); 192.112(b)(1)(iii); 192.112(b)(2)(iv); 192.112(d)(1); 192.112(e)(1); 192.113;

Item I, Appendix B to Part 192; 195.3; 195.106(b)(1)(i); 195.106(e).

[Replaces IBR: ANSI/API Specification 5L/ISO 3183, ''Specification for Line Pipe'' (44th edition, 2007), includes errata (January 2009) and addendum (February 2009).]

(5) ANSI/API Specification 6D, ''Specification for Pipeline Valves'' (23rd edition, April 1, 2008, effective October 1, 2008), includes Errata 1 (June 2008), Errata 2 (November 2008), Errata 3 (February 2009), Errata 4 (April 2010), Errata 5 (November 2010), Errata 6 (August 2011), Addendum 1 (October 2009), Addendum 2 (August 2011), and Addendum 3 (October 2012) into 49 CFR 192.7; 192.145(a); 195.3, 195.116(d).

[Replaces IBR: ANSI/API Specification 6D, ''Specification for Pipeline Valves'' (23rd edition (April 2008, effective October 1, 2008)) and Errata 3 (includes 1 and 2, February 2009).]

(6) API Specification 12F, ''Specification for Shop Welded Tanks for Storage of Production Liquids'' (12th edition, October 2008, effective April 1, 2009) into 49 CFR 195.3, 195.132(b)(1), 195.205(b)(2), 195.264(b)(1), 195.264(e)(1), 195.307(a), 195.565, 195.579(d).

[Replaces IBR: API Specification 12F, ''Specification for Shop Welded Tanks for Storage of Production Liquids,'' (11th edition, November 1, 1994, reaffirmed 2000, errata, February 2007);]

(7) API Standard 620, ''Design and Construction of Large, Welded, Low-pressure Storage Tanks'' (11th edition, February 2008), addendum 1, (March 2009), addendum 2 (August 2010), and addendum 3 (March 2012) into 49 CFR 193.2013; 193.2101(b); 193.2321(b)(2); 195.3; 195.132(b)(2); 195.205(b)(2); 195.264(b)(1); 195.264(e)(3); 195.307(b); 195.565; 195.579(d).

[Replaces IBR: API Standard 620, ''Design and Construction of Large, Welded, Low-Pressure Storage Tanks'' (11th edition, February 2008, addendum 1 March 2009).]

(8) API Standard 650, ''Welded Tanks for Oil Storage'' (11th edition, June 2007, effective February 1, 2012), includes addendum 1 (November 2008), addendum 2 (November 2009), addendum 3 (August 2011), and errata (October 2011) into 49 CFR 195.3; 195.132(b)(3); 195.205(b)(1); 195.264(b)(1); 195.264(e)(2); 195.307(c); 195.307(d); 195.565; 195.579(d).

[Replaces IBR: API Standard 650, ''Welded Steel Tanks for Oil Storage'' (11th edition, June 2007), addendum 1 (November 2008).]

(9) ANSI/API Standard 2000, ''Venting Atmospheric and Low-pressure Storage Tanks'' (6th edition, November 2009) into 49 CFR 195.3, 195.264(e)(2), 195.264(e)(3).

[Replaces IBR: API Standard 2000, ''Venting Atmospheric and Low-Pressure Storage Tanks Non-Refrigerated and Refrigerated'' (5th edition, April 1998, errata, November 1999).]

American Society for Testing and Materials (ASTM)

(1) ASTM A53/A53M–10, ''Standard Specification for Pipe, Steel, Black and Hot-Dipped, Zinc-Coated, Welded and Seamless'' (October 1, 2010), into 49 CFR 192.7; 192.113; Item 1, Appendix B to Part 192; 195.3; 195.106(e).

[Replaces IBR: ASTM A53/A53M–07, ''Standard Specification for Pipe, Steel, Black and Hot-Dipped, Zinc-Coated Welded and Seamless'' (September 1, 2007).]

(2) ASTM A106/A106M–10, ''Standard Specification for Seamless Carbon Steel Pipe for High-Temperature Service'' (October 1, 2010), into 49 CFR 192.7; 192.113; Item 1, Appendix B to Part 192; 195.3; 195.106(e).

[Replaces IBR: ASTM A106/A106M–08, ''Standard Specification for Seamless Carbon Steel Pipe for High-Temperature Service'' (July 15, 2008).]

(3) ASTM A333/A333M–11, ''Standard Specification for Seamless and Welded Steel Pipe for Low-Temperature Service'' (April 1, 2011), into 49 CFR 192.7; 192.113; Item 1, Appendix B to Part 192; 195.3; 195.106(e).

[Replaces IBR: ASTM A333/A333M–05, ''Standard Specification for Seamless and Welded Steel Pipe for Low-Temperature Service'' (March 1, 2005).]

(4) ASTM A372/A372M–10, ''Standard Specification for Carbon and Alloy Steel Forgings for Thin-Walled Pressure Vessels'' (October 1, 2010), into 49 CFR 192.7, 192.177(b)(1).

[Replaces IBR: ASTM A372/A372M–03 (reapproved), ''Standard Specification for Carbon and Alloy Steel Forgings for Thin-Walled Pressure Vessels'' (March 1, 2008).]

(5) ASTM A671/A671M–10, ''Standard Specification for Electric-Fusion-Welded Steel Pipe for Atmospheric and Lower Temperatures'' (April 1, 2010), into 49 CFR 192.7; 192.113; Item 1, Appendix B to Part 192; 195.3; 195.106(e).

[Replaces IBR: ASTM A671–06 (2006) ''Standard Specification for Electric-Fusion-Welded Steel Pipe for Atmospheric and Lower Temperatures'' (May 1, 2006).]

(6) ASTM A672/A672M–09, ''Standard Specification for Electric-Fusion-Welded Steel Pipe for High-Pressure Service at Moderate Temperatures'' (October 1, 2009), into 49 CFR 192.7; 192.113; Item 1, Appendix B to Part 192; 195.3; 195.106(e).

[Replaces IBR: ASTM A672–08, ''Standard Specification for Electric-Fusion-Welded Steel Pipe for High-Pressure Service at Moderate Temperatures'' (May 1, 2008).]

(7) ASTM A691/A691M–09, ''Standard Specification for Carbon and Alloy Steel Pipe, Electric-Fusion-Welded for High-Pressure Service at High Temperatures'' (October 1, 2009), into 49 CFR 192.7; 192.113; Item 1, Appendix B to Part 192; 195.3; 195.106(e).

[Replaces IBR: ASTM A691–98 (reapproved 2007), ''Standard Specification for Carbon and Alloy Steel Pipe, Electric-Fusion-Welded for High-Pressure Service at High Temperatures'' (November 1, 2007).]

(8) ASTM D2513–09a, ''Standard Specification for Polyethylene (PE) Gas Pressure Pipe, Tubing, and Fittings'' (December 1, 2009), into 49 CFR 192.7; 192.123(e); 192.191(b); 192.283(a); Item 1, Appendix B to Part 192.

Manufacturers Standardization Society of the Valve and Fittings Industry, Inc. (MSS)

(1) MSS SP–44–2010, Standard Practice, ''Steel Pipeline Flanges'' (2010 edition, includes Errata, May 20, 2011), into 49 CFR 192.7, 192.147(a). [Replaces IBR: MSS SP–44–2006, Standard Practice, ''Steel Pipeline Flanges'' (2006 edition).]

(2) MSS SP–75–2008, Standard Practice, ''Specification for High-Test, Wrought Butt-Welding Fittings'' (2009 edition), into 49 CFR 195.3, 195.118(a). [Replaces IBR: MSS SP–75–2004, ''Specification for High Test Wrought Butt Welding Fittings'' (2004 edition).]

NACE International (NACE)

(1) ANSI/NACE Standard SP0502–2010, Standard Practice, ''Pipeline External Corrosion Direct Assessment Methodology'' (June 24, 2010), into 49 CFR 192.7; 192.923(b)(1); 192.925(b), (b)(1), (b)(1)(ii), (b)(2), (b)(3), (b)(3)(ii)(A), (b)(3)(ii)(B), (b)(3)(iv), (b)(4), (b)(4)(ii); 192.931(d); 192.935(b)(1)(iv); 192.939(a)(2); 195.3; 195.588(b)(1), (b)(2), (b)(2)(iii), (b)(3), (b)(4), (b)(4)(ii)(A), (b)(4)(ii)(B), (b)(iv), (b)(5), (b)(5)(ii).

[Replaces IBR: NACE SP0502–2008, Standard Practice, ''Pipeline External Corrosion Direct Assessment Methodology'' (reaffirmed March 20, 2008).]

National Fire Protection Association (NFPA)

(1) NFPA–30 (2012), ''Flammable and Combustible Liquids Code,'' includes Errata 1, Errata 2 (2012 edition, June 20, 2011), into 49 CFR 192.7, 192.735(b), 195.3, 195.264(b)(1).

[Replaces IBR: NFPA–30, ''Flammable and Combustible Liquids Code'' (2008 edition, approved August 15, 2007).]

(2) NFPA–70 (2011), ''National Electrical Code'' (2011 edition, approved August 5, 2010), into 49 CFR 192.7, 192.163(e), 192.189(c). [Replaces IBR: NFPA 70 (2008), ''National Electrical Code'' (NEC 2008, approved August 15, 2007).]

B. Standards Not Incorporated

PHMSA did not propose to incorporate by reference API Recommended Practice (RP) 1162 (second edition, December 2010); API Standard (Std) 653 (4th edition) and Addendum (2010); or section 4.2, ''Rework Material'' of ASTM D2513–09a, ''Standard Specification for Polyethylene (PE) Gas Pressure Pipe, Tubing, and Fittings.'' except for PHMSA has not incorporated these three standards because:

• *API RP1162–2003*—This rule retains API RP 1162, ''Public Awareness Programs for Pipeline Operators'' (1st edition, December 2003). PHMSA has decided not to incorporate the second edition at this time because it intends to consult with state pipeline authorities after they report on the results of their 2012 state compliance inspections. These inspections were based on the criteria in the first edition. A public workshop will then be conducted to discuss the inspection data and best practices.

• *API Std 653–2001*—This rule retains API Std 653–2001, ''Tank Inspection, Repair, Alteration, and Reconstruction'' (3rd edition, December 2001), with the exception of section 6.4.3, ''Alternative Internal Inspection Interval.'' PHMSA has decided to exclude section 6.4.3 because of concerns that the risk-based inspection (RBI) procedures described in section 6.4.3 of the standard do not require adequate or consistent assessment factors for establishing an alternate internal inspection interval. First, the standard states that an operator ''should'' consider certain factors in making an RBI assessment of a tank, but it does not make such consideration mandatory. Second, the RBI procedures described in section 6.4.3 would allow operators to establish minimum bottom plate thicknesses less than the minimum values referenced in table 6–1, ''Bottom Plate Minimum Thickness,'' and section 4.4.5.4, ''Minimum Thickness for Tank Bottom Plate.'' Third, the procedures may also increase or decrease the 20-year inspection interval described in 6.4.2.1, ''Internal Intervals.'' PHMSA does not agree with allowing such a lengthy interval between inspections.

Under this rule, any operator who previously established an alternate internal inspection interval using the procedures in section 6.4.3 must reestablish such intervals based on section 6.4.2, ''Inspection Intervals,'' of API Std 653–2001 within 2 years from the date of this final rule.

• *ASTM D2513–09a*—PHMSA will incorporate ASTM D2513–09a, ''Standard Specification for Polyethylene (PE) Gas Pressure Pipe, Tubing, and Fittings,'' except section 4.2, ''Rework Material.'' Section 4.2 states: ''Clean rework material of the same commercial designation, generated from the manufacturer's own pipe and fitting production shall not be used unless the pipe and fitting produced meets all the requirements of this specification. The use of these rework materials shall be governed by the requirements of section 4.3 and Plastic Pipe Institute (PPI) Technical Note TN–30/2006.''

Currently, rework materials are limited to a maximum of 30 percent by weight. One of the main steps of plastic pipe manufacturing includes an extrusion process, where raw or virgin material (usually supplied in the form of pellets) is heated, melted, mixed and conveyed into a die and shaped into a pipe. Rework (also known as regrind) is a process by which plastic pipe that does not fall within acceptable specifications following the extrusion process can be reused if it meets the requirements of Section 4.2, including requirements in PPI TN–30/2006. Requirements in PPI TN–30/2006 include reducing the size of the material through appropriate stages (*i.e.* regrinding the material) to an equivalent size to the raw virgin pellet material and avoiding contamination. The ground up material is then mixed back in with a portion of raw pellet material prior to going back through the extrusion process. Despite these requirements, PHMSA believes prohibiting the use of rework material is the only way to ensure the materials used by operators are not contaminated during the manufacturing process. This topic received a number of comments and was discussed in detail at the advisory committee meetings. Information about these comments is provided in Section IV.

During the drafting process of this final rule, the **Federal Register** advised that PHMSA would not be allowed to include an exception clause to the list of standards in the centralized listing as PHMSA had discussed in the NPRM and at the advisory committee meeting. Instead, revisions are noted in each of the affected sections to accommodate the incorporation of ASTM D2513–09a for PE pipe and the continued incorporation of ASTM D2513–87 and ASTM D2513–99 for non-PE plastic pipe. The revisions are summarized below:

○ In § 192.7, PHMSA is adding ASTM D2513–09a to the listing of documents incorporated by reference.

○ In § 192.59, PHMSA is adding a new paragraph (d) to specify that PHMSA will prohibit rework for all plastic pipe manufactured after the effective date of this final rule and used in pipeline systems subject to Part 192.

○ In § 192.63(a)(1), PHMSA is clarifying that ASTM D2513–87 applies to plastic pipe and fittings made of materials other than polyethylene.

○ In § 192.123(e)(2), PHMSA is including verbiage to indicate that ASTM D2513–09a pertains to PE pipe only.

○ In § 192.191, PHMSA is clarifying that ASTM D2513–99 is applicable to plastic materials other than polyethylene and is adding a reference to ASTM D2513–09a applicable to PE materials only.

○ In § 192.283(a)(1)(i), PHMSA is clarifying that ASTM D2513–99 is applicable to plastic materials other than polyethylene and is adding a reference to ASTM D2513–09a applicable to polyethylene plastic (PE) materials only.

○ In Part 192, Appendix B, Section 1, PHMSA is adding ASTM D2513–09a to the list of pipe specifications.

C. Editorial Corrections and Clarifications

This final rule is also making several non-substantive editorial amendments to Parts 192, 193, and 195, and 198. The final rule:

• Changes the ''Centralized IBR Sections'' from a table format to a listing.

• Adds abbreviated titles to the list of standards to be incorporated in §§ 192.7, 193.2013, and 195.3.

• Revises current titles to abbreviated titles.

• Corrects the reference to the Gas Technology Institute (GTI) research document (formerly the Gas Research Institute (GRI)) document number from GRI–89/0242 to GTI–04/0049.

• Removes an incorrect reference to ASME Boiler & Pressure Code, Section VII, Division 2 in § 193.2321.

• Inserts the year of certain standards where more than one edition may be applied.

• Inserts the notation ''Incorporated by Reference'' in the regulation text if not included previously.

In addition, the following technical corrections and changes are being made to specific sections as follows:

• *Section 192.283(a)(1)(i)* currently states ''or par. 8.9 (Sustained Static Pressure Test)''. This sentence has been deleted because PHMSA believes the reference is an error. Paragraph 8.9 does not exist in current edition of ASTM D2513–99 nor does it appear in several other versions of this referenced standard. PHMSA's staff researched several editions of ASTM D2513, the pipeline safety regulations and **Federal Register** notices to determine if the paragraph may have been associated with a different standard but found no reference to paragraph 8.9. Furthermore, PHMSA is clarifying that ASTM D2513–09a is for PE pipe only as this section pertains to both PE manufactured to ASTM D2513–09a and non-PE plastic manufactured to ASTM D2513–99. The resulting language will read, ''In the case of thermoplastic pipe, paragraph 6.6 (Sustained Pressure Test) or paragraph 6.7 (Minimum Hydrostatic Burst Test) of ASTM D2513–99 for plastic materials other than polyethylene or ASTM D2513–09a for polyethylene plastic materials (incorporated by reference, *see* § 192.7).''

• *Section 195.264(b)(1)(i) and (ii)* reference section numbers from an earlier edition of NFPA–30 previously incorporated by reference. The section references are changed to reflect the current edition section numbers from NFPA–30 (2012). The new section numbers are 22.11.1 and 22.11.2.

• *Section 195.432(b)* states that operators must inspect the physical integrity of in-service atmospheric and low pressure steel aboveground breakout tanks in accordance with API Standard 653. PHMSA is amending this section by disallowing the use of the procedures in section 6.4.3, *Alternative Internal Inspection Interval,* of API Standard 653. This final rule also provides instruction to operators who previously calculated alternative internal inspection intervals using the guidance in section 6.4.3 of API Std 653.

• *Section 195.452(l)* states that an operator must maintain certain records for review during an integrity management (IM) inspection. In this rule, PHMSA is establishing that operators must maintain their IM records for the useful life of the pipe.

• *Section 198.37(f)* states operators of underground pipeline facilities participating in one-call facility notification systems must be required to respond in the manner prescribed in § 192.614(b)(4) through (b)(6). This section is changed to reflect the correct references from § 192.614(b)(4) through (b)(6) to § 192.614(c)(4) through (c)(6).

• *Section 199.111* contains conflicting requirements as those stated in 49 CFR part 40 causing confusion for both the covered employee and the operator who must comply with this section and with Part 40. For example, in Part 40, it is the responsibility of the medical review officer (MRO) to select the laboratory to which the split sample should be sent however in § 199.111 the specimen donor (*i.e.,* the covered employee), and not the MRO, selects the testing laboratory to which his/her split specimen should be sent for corroborating evaluation. Another discrepancy between the regulations deals with whether the same laboratory can retest a split specimen. In order to eliminate these conflicts, PHMSA is removing section § 199.111. Operators are to follow the requirements in Part 40.

III. Advisory Committees Actions

On December 17, 2013, and February 25, 2014, PHMSA conducted meetings of the Technical Pipeline Safety Standards Committee (TPSSC) and the Technical Hazardous Liquid Pipeline Safety Standards Committee (THLPSSC) to discuss the NPRM and its regulatory evaluation. These statutorily-mandated committees advise PHMSA on the technical feasibility, reasonableness, and cost-effectiveness of its proposed regulations. At the December meeting, in accordance with 49 U.S.C. 60102(b)(2)(G), each of the committees voted in favor of adopting all of the proposed standards to be incorporated, but there were additional comments and questions about rework and the impact of PHMSA's proposal to incorporate ASTM D2513–09a with the exception of section 4.2, ''Rework Material.'' Members were particularly interested in learning more about the manufacturing process and potential contamination during the extrusion process, and in soliciting additional information and opinions from industry experts.

On February 25, 2014, the committees met again. PHMSA presented more information on the topic of rework and regrind issues. Additionally, a panel of experts, including representatives from the National Association of Pipeline Safety Representatives (NAPSR), the AGA, the PPI, and an independent consultant heavily involved with ASTM standards development, provided their perspectives on the topic. All representatives, with the exception of the PPI representative, supported the PHMSA proposal. The PPI suggested an alternative that would limit the use of rework to pipe larger than 2 inches in diameter. Additional comments from the panelists are provided in Section IV of this document.

In February, the TPSSC voted unanimously to recommend that the NPRM, excluding rework issues, was technically feasible, reasonable, practicable, and cost-effective. Prohibiting rework does not affect the liquid industry.

Transcripts from the committee meetings are available in the docket for this rulemaking and in the advisory committees' meeting dockets.

IV. Summary of Comments

PHMSA received comments from nine organizations in response to the NPRM, including: MSS; API; NFPA; Pipeline Plastics, LLC; Southwest Gas Corporation; Chevron Phillips Chemical Company; PPI; and AGA.

At the two advisory committee meetings, comments were also received from the organizations mentioned above, members of the TPSSC and the THLPSSC and from representatives of the Virginia State Corporation Commission and NAPSR. Their comments are summarized below.

A. Miscellaneous Changes

MSS recommended that PHMSA incorporate by reference the 2011 errata to MSS SP–44–2010, Standard Practice, ''Steel Pipeline Flanges.'' PHMSA agrees with this comment and will include the errata, which contains a minor correction to Table C4 of the standard that corrects the number of bolt holes from 28 to 32 for 42-inch-diameter pipe.

The NFPA representative and a PHMSA staff member noted that in existing § 195.264(b)(1)(i) and (ii), the section references to the standard incorporated by reference, (*i.e.*, NFPA–30 (2012 edition)), were incorrect. Therefore, the section references will change from section 4.3.2.3.2 to section 22.11.1.

The API provided comments on incorporating standards, some of which had not been finalized until after the NPRM was published, and others that were outside the scope of this notice, including: API Std 653, API RP 1162, API RP 1164, and NFPA–70.

B. Comments and Discussion on Rework and Incorporating ASTM D 2513–87, –99, –09a, ''Specifications for Thermoplastic Gas Pressure Pipe, Tubing and Fittings'' (except section 4.2, ''Rework Materials)

• ASTM D2513–87 and –99—The Southwest Gas Corporation recommended that PHMSA eliminate the incorporation by reference of ASTM D2513–87, ''Standard Specification for Thermoplastic Gas Pressure Pipe, Tubing, and Fittings'' (for non-polyethylene plastic materials only) in §§ 192.7 and 192.63(a)(1) for marking only, in favor of incorporating the 1999 edition of the standard. Southwest indicated that the reference to the 1987 edition was introduced in an earlier amendment to the code at the same time ASTM D1990c was incorporated as an update to the 1987 version. Southwest Gas believed the 1990c version did not require operators to identify certain temperature ratings for fittings, so the 1987 version was retained. With the release of the 1999 edition, the temperature-marking requirement for fittings was restored, so Southwest Gas believed it would be a more appropriate version to use for marking as well.

PHMSA staff recalled that the 1990c edition did not require fittings that were intended for use at elevated temperatures to be marked to identify certain temperature ratings, a requirement that PHMSA believed was beneficial. Therefore, the 1987 edition continued to be referenced for the purpose of marking thermoplastic fittings. With the release of the 1999 edition, however, the marking intervals were increased from 2 feet to 5 feet. PHMSA has decided to retain the 1987 version of ASTM D2513 for purposes of marking of non-polyethylene plastic materials because it requires operators to mark pipe and tubing at intervals of not more than 2 feet. PHMSA prefers this more stringent requirement because the less spacing there is between markings along a pipe, the easier it is to identify the pipe during excavation. A smaller interval also helps reduce the size of the ditch/hole needed for excavation. The more stringent requirement is also present in the 2009a version of ASTM D2513 for polyethylene pipe and fittings, so ASTM D2513–09a will be IBR for purposes of marking PE materials only.

PHMSA has revised § 192.63(a)(1) to clarify that ASTM D2513–87 would continue to apply to the marking of non-PE materials. A specific reference to ASTM D2513–09a is not needed in 192.63(a)(1) to address marking for PE materials because (1) it is already listed in Appendix B to Part 192, and (2) other language in § 192.63(a)(1) already requires each valve, fitting, length of pipe and other component to be marked as prescribed in the specification or standard to which it was manufactured.

• ASTM D 2513–09a (except section 4.2, ''Rework Materials'')—The following entities provided comments on the incorporation of ASTM D2513–09a and the proposal to exclude the use of rework materials: AGA; Pipeline Plastics, LLC; PPI and Chevron Phillips Chemical Company. All of these organizations were in favor of incorporating ASTM D2513–09a for PE pipe, but had varying comments on the exclusion of rework materials.

The AGA provided comments to the docket based on input from its Plastic Materials Committee (PMC), which includes operators and plastic pipe manufacturers. Based on discussions within the PMC, the AGA suggested an alternative based on pipe diameter, whereby no rework material would be allowed for pipe 2 inches Iron Pipe Size (IPS) and below in diameter and the requirements in ASTM D2513–09a, section 4.2 would be acceptable for pipe larger than 2 inches IPS in diameter.

The AGA contended that to the extent there are material issues with rework, it is reasonable to believe that the risks are greater with smaller-diameter, thinner-wall pipe, specifically, pipe smaller than 2 inches in diameter. According to AGA, many operators have used the 2-inch diameter as a threshold for prohibiting the use of rework, while others require virgin plastic for all their piping. The AGA suggested that establishing the 2-inch diameter threshold could be a reasonable step as operators and manufacturers continue to seek consensus and discuss the issue within the PMC and with PHMSA.

At the February advisory committee meetings, a member of the TPSSC and a gas operator provided comments on behalf of AGA indicating that, while in previous comments to the docket, the organization had recommended PHMSA adopt an alternative that rework only be allowed for pipe greater than 2 inches in diameter, it now recognized that some of its members now believed there were continued safety concerns with the use of reworked pipe and, in an effort to move forward, the AGA supported the adoption of ASTM D2513–09a without rework. The PPI, a major trade association representing all segments of the plastics pipe industry, and Pipeline Plastics, LLC, a major manufacturer of polyethylene pipe, opposed the exclusion of rework and recommended that ASTM D2513–09a be incorporated in its entirety. These two organizations referred to the Operations Technology Development, NFP [1] (OTD) company's research Project No. 2.ff (summary version) titled ''Evaluation for Impact of Rework'' which was referenced in the 2009 standard and PPI Technical Note 30 (TN–30), which concluded that the proper handling and use of rework does not have a negative effect on any of the three performance parameters for PE gas pipe. Therefore, these organizations believe adhering to the 2009 standard and PPI TN–30, which provides guidance for manufacturers and end-users on the safe and proper use of rework, would adequately address rework.

The PPI and Pipeline Plastics, LLC also contended there could be environmental and cost impacts associated with prohibiting rework. These organizations stated that if rework were prohibited, additional unused plastic could be put in landfills. They also indicated that the unused plastic could be used for other plastic processing operations, such as blow molding.

The PPI estimated that using PE scrap in blow molding rather than regrind in pipe production could potentially increase PE pipe manufacturer costs by $1 million to $3 million annually. This estimate is based on 2013 PPI resin usage (est. 200,000,000 lbs. used in gas distribution pipe production), current market resin pricing data (price differential of $0.10 to $0.15 per pound between pipe grade and blow mold grade resins), and an estimated 5 to 10 percent scrap generation from extrusion.

At the February joint advisory committee meeting, a manufacturer representing PPI raised similar concerns to those raised during the comment period. The following concerns were presented.

○ *Cost of gas distribution pipe.* The PPI felt that there is no other market in North America for medium-density polyethylene pipe other than gas distribution, the majority of which uses medium density pipe. The PPI stated that all other polyethylene markets use high-density pipe. Therefore, if reworked pipe is not allowed, the cost of the medium-density pipe would be discounted to a non-pressure pipe or commodity product price. This could cause manufacturers to see an inherent loss in value based on scrap levels.

[1] Operations Technology Development (OTD) is a not-for-profit corporation led by 22 members who serve over 28 million natural gas consumers in 27 states and Canada. OTD develops advanced technologies for the natural gas industry; U.S. utilities combined interests, expertise, and resources into focused Research & Development projects.

Some manufacturers felt the estimated $1 million to $3 million cost impact was low because there is no true alternative market to sell pipe that can't be used for gas transportation. It would not be worth regrinding pipe, transferring that material to another facility and manufacturing something else. The PPI admitted it couldn't share more detailed costs due to anti-trust concerns and, therefore, was unable to give a true number.

○ *Eliminating rework won't result in better-quality pipe.* PPI expressed the view that eliminating rework won't necessarily result in better-quality pipe and rework doesn't address other sources of contamination. In the PPI's opinion, rework pressures operators and manufacturers to minimize scrap. The PPI also felt there was no true way to test a pipe later to determine whether or not it was manufactured with rework material. If operators required no rework in their specifications, it would be difficult to trace and audit.

○ *Oil and gas gathering lines.* The PPI indicated it had several members whose pipelines had previously been unregulated but which had now became regulated due to encroaching development. To protect themselves, midstream users are requiring pipe for oil and gas gathering lines to meet ASTM D2513. If rework is not allowed, midstream users will also have to comply. The industry is concerned if reworked pipe is not allowed for oil and gas gathering lines, which is almost half of the total pressure pipe market, there would be an even larger cost impact. Based on their concerns, the PPI suggested an alternative to only prohibit rework in pipes larger than 2 inches in diameter.

Dura-Line, a pipeline manufacture, stated that their company has been rework-free for a full year and that they instead supported the AGA's position to not allow rework. The statement was made for the record that its position was not unanimous among its membership.

Another member of the public stated that while the vote at the PPI was not unanimous, the PPI has a consensus process to follow, and it was the decision of their Energy Piping Systems Committee to move this issue forward in the manner they did. This individual urged support of the PPI recommendation.

Chevron Phillips preferred incorporating ASTM D2513–09a in its entirety but suggested if additional limitations were to be adopted, it would recommend adopting sizing restrictions, such as limiting the use of rework to pipes with wall thicknesses greater than 0.170 inches. They also suggested there could be additional costs associated with prohibiting rework. According to Chevron Phillips, PE gas pipe resins are specifically tailored through processing and additives to yield the highest quality pipe and fitting products. If the rework materials from these products cannot be used in the manufacture of gas pipes, they will be less valuable in alternate products. According to Chevron Phillips, the cost of the raw material is by far the largest contributor to the overall cost of the pipe or fittings, and an increased cost would have to be passed on to the utilities and consumers, which will affect the competitive position of PE gas pipe.

An independent expert discussed his experience with both operators and the standards developing committees, and the extent to which other countries allow rework. He stated that Canada is considering not allowing rework in the Canadian Standards Association (CSA) B137.4, which is the standard similar to ASTM D2513 for polyethylene gas pipe. He also reported that rework is not allowed in France, the Netherlands, Belgium and Korea. The United Kingdom requires that either no rework material be used, or, if it is used, the pipe must be 100 percent reworked material (not a combination). He also acknowledged the ongoing work in ASTM to develop a standard for the proper use of rework and a recent revision to PPI TN–30, both of which he acknowledged are good documents. However, in his opinion, these documents mainly provide good recommendations for material handling. He believed the only true guaranteed means to prevent contamination from rework is not to allow rework in ASTM D2513–09a. He noted that although he is a member of the PPI, he was not in support of the group's position and recommended the advisory committees support the PHMSA proposal regarding adoption of ASTM D2513–09a, with the exception of rework.

An individual from the Virginia State Corporation Commission (speaking on behalf of himself) stated that he had conducted research on the use of rework in the U.S. and in other parts of the world. He expressed concern that PPI TN–30 provides no guidance on cleaning, the verification process, or testing requirements prior to regrind material use, which does not assure that reground material is free from contamination. He also stated that using magnets to attract certain materials is not reliable, as magnets do not attract particles including non-ferrous materials, brass, aluminum and dust. He stated that some pipe might also sit for periods of time with the manufacturer and become oxidized, which causes harm to pipe material. Such oxidized pipe may then be ground up and introduced into the rework process. He added that rework is not allowed for pipe built to American Association of State of Highway Transportation Officials' standards, and that ASTM is currently working on a standard, ASTM WK–37322, where they are looking to the possibility of eliminating the use of rework entirely.

C. Advisory Committees—Action/Q & A

A member from the Iowa Utilities Board asked why some operators require virgin plastic materials while others use the 2-inch measure as explained by AGA. PHMSA explained that the use of virgin plastic or the 2-inch measure is determined on an operator-by-operator basis. A member of the gas committee, representing industry, stated that National Grid uses only virgin material plastic. The selection and use of the material is decided by their materials engineering manager who bases his decision on experience, examination of pipe tested in their lab, and field work. Ultimately, the materials engineering manager was more comfortable with using virgin material.

A member of the liquid committee, representing the Virginia State Corporation Commission, stated that from his experience, companies in Virginia recognize that using virgin materials may not be the real issue at all. Instead, there is more of a concern that there is opportunity for pipe material to be contaminated during the manufacturing process. The plastic pipe manufacturing process is an area where there are few standards.

A member of the gas committee, representing the public from Hartford Steam Boiler, asked how PHMSA would control the implementation of a standard that banned the use of rework but where the pipe was marked as meeting specifications and the industry specification permitted rework material. PHMSA replied that, from a regulatory standpoint, the IBR of ASTM D2513–09a would have a caveat stating the exception to section 4.2 (addressing rework). In addition, a documentation system to trace raw material is required under section 4.3. Therefore, both manufacturers and operators would need to keep adequate records. The ultimate responsibility for verifying the type of pipe actually used would rest with the operator.

A member of the liquid committee provided comments on behalf of NAPSR, stating that the PHMSA presentation adequately described NAPSR's concerns. The member stated

that NAPSR feels the ratepayers pay for good pipe that's made of virgin material and should last not just a few years, but, if constructed properly, for the next 100 years. With that, NAPSR was opposed to any use of rework for construction of plastic pipe for gas.

D. PHMSA Position on Rework

At the February advisory committee meetings, a PHMSA staff member provided more background information on rework and described the differences in the three versions of the standards proposed. He also presented additional technical and field perspective on issues surrounding rework itself, as well as applicable requirements or guidance found in ASTM D2513–09a and PPI TN–30. Among the new technical information presented, the PHMSA staff member provided information from several other reports: ''Analysis of Microscopic Leaks in Polyethylene Gas Distribution Piping'' by Electric Power Research Institute (EPRI); ''Electrochemical Treeing in Cable'' by Phelps Dodge Cable and Wire Company (January 1978); and ''Deterioration of Water Immersed Polyethylene-Coated Wire by Treeing'' by Takao Miyashita (IEEE Member) (March 1971).

These reports indicated that rework could potentially be an issue of concern, particularly through breakdown of dielectric properties, the development of pinhole leaks, and static discharge. The PHMSA staff member restated several of the technical issues referenced in the OTD report, ''Evaluation of Impact of Rework,'' mentioned by several commenters and indicating that rework was not an issue. The PHMSA staff member did acknowledge that none of the reports mentioned thus far was definitive, one way or another. The PHMSA staff member presented information on the extent to which other countries and industries allow rework. Previous comments from manufacturers indicated no other country or industry prohibits rework, and the U.S. (through PHMSA) would be the first to do so. In the United States, the nuclear industry does not allow scrap or regrind material per Code Case N–755. While the Code Case is not directly incorporated under Title 10, in part because plastic is newer to the nuclear industry and there may be some other issues with the Code Case, anyone who wants to use plastic instead of steel in the nuclear industry needs to present technical information to justify the use of plastic. It is typically expected that anyone who wants to use plastic pipe must comply with N–755, including not allowing the use of regrind material.

The electric industry has also experienced poor performance on insulation materials and effects from contamination and has developed better standards and quality-control procedures. A listing of references to additional reports was provided and is available on the meeting Web site and on the docket. For other countries, the PHMSA staff member noted that Canada is considering prohibiting rework through a standard being developed by the CSA. The PHMSA staff member also understood many foreign operators do not allow rework.

After reviewing the comments and materials provided, PHMSA is not convinced there is adequate justification to allow rework materials (section 4.2 of ASTM D2513–09a) for PE pipe at this time. PHMSA believes commenters did not make it clear how incorporating the standard in its entirety for all PE piping would provide an equivalent level of safety or better. It appears there is more evidence indicating that the exclusion of rework would provide increased safety for operators due to the concern of contamination of the materials during the manufacturing process and, therefore, contaminating the new pipe.

Comments received concerning potential costs associated with prohibiting rework entirely may not have taken all relevant factors into account (*e.g.,* how many operators are actually allowing rework materials). PHMSA believes the commenters may have also overestimated the cost impact on manufacturers because the results appear to be based on the assumptions that rework is currently allowed by all pipeline operators. PHMSA has learned however, from comments made by the AGA, NAPSR, and an advisory committee industry member that some operators currently prohibit rework for piping under a certain diameter, with many operators already requiring the use of virgin plastic pipe only. The available data based on industry-wide practices and action costs does not appear to indicate a significant increase in costs to manufacturers or operators.

If some additional costs are incurred to improve quality control and assurance processes, PHMSA believes any improvements in manufacturing quality assurance/quality control are likely to be outweighed by the benefits for pipeline safety.

Some commenters stated reworked material is sometimes used for alternative purposes such as blow molding. The PPI suggested there is no other market for medium-density PE pipe other than gas distribution.

PHMSA believes additional guidance on manufacturing procedures could possibly reduce the amount of scrap used for rework material. The ASTM is currently developing a standard for the proper use of rework, and a recent revision to PPI TN–30 provides good recommendations for materials handling.

While PPI's concerns related to oil and gas gathering lines may have some validity, and there may be a time when more oil and gas gathering lines could become regulated, any such discussions are outside the scope of this rulemaking. PHMSA does, however, commit to engage with the manufacturers and other relevant stakeholders when discussing the use of plastic materials in oil and gas gathering lines.

PHMSA stands by its original proposal to incorporate ASTM D2513–09a for PE pipe and continue to reference ASTM D2513–99 for non-PE plastic pipe but prohibit the use of rework material. PHMSA will also continue to reference ASTM D2513–87 for marking only of non-PE plastic pipe.

V. Public Availability of Standards

All incorporated by reference documents addressed in this rule are available for visual inspection, as required by Section 24 of Public Law 112–90, January 3, 2012, and amended 49 U.S.C. 60102 on January 3, 2013 at the following locations:

—The U.S. Department of Transportation, Pipeline and Hazardous Materials Safety Administration, Office of Pipeline Safety, 1200 New Jersey Avenue SE., Washington, DC 20590–0001 or any of PHMSA's five regional offices (addresses available at: *http://www.phmsa.dot.gov/pipeline/about/org*);

—The National Archives and Records Administration (NARA), Office of the Federal Register (NF), 8601 Adelphi Road, College Park, MD 20740–6001. For information on the availability of this material at NARA, call 202–741–6030 or go to: *http://www.archives.gov/federal-register/code-of-federal-regulations/ibr-locations.html;* and

—The respective standards developing organizations (SDO) listed in Parts 192, 193, and 195. If you want to view the standards for free or purchase copies of the standards incorporated by reference, they are available from each of the SDOs listed above and may also be available on the open market. With this rule, the SDO Web sites have been added to the listing of documents incorporated by reference in each part.

VI. Regulatory Analyses and Notices

A. Summary/Legal Authority for This Rulemaking

This final rule is published under the authority of the Federal pipeline safety law (49 U.S.C. 60101 *et seq.*). Section 60102 authorizes the Secretary of Transportation to issue regulations governing the design, installation, inspection, emergency plans and procedures, testing, construction, extension, operation, replacement, and maintenance of pipeline facilities. Further, Section 60102(l) of the Federal pipeline safety law states that the Secretary shall, to the extent appropriate and practicable, update incorporated industry standards that have been adopted as a part of the Federal pipeline safety regulations. This final rule incorporates by reference two new editions (one partially incorporated) and 21 updated standards of those currently-referenced standards (wholly or in part). In addition, this final rule makes several other miscellaneous and editorial changes to the pipeline safety regulations.

B. Executive Order 12866, Executive Order 13563, and DOT Regulatory Policies and Procedures

This final rule is not considered a significant regulatory action under section 3(f) of Executive Order 12866 (58 FR 51735) and, therefore, was not subject to review by the Office of Management and Budget (OMB). This final rule is considered non-significant under the Regulatory Policies and Procedures of the Department of Transportation (44 FR 11034).

In accordance with the National Technology and Advancement Act of 1995 (''the Act'') and OMB Circular A–119, ''Federal Participation in the Development and Use of Voluntary Consensus Standards and in Conformity Assessment Activities,'' PHMSA constantly reviews new editions and revisions to relevant standards and publishes a proposed rule every 2 years to incorporate by reference new or updated consensus standards. This practice is consistent with the intent of the Act and OMB directives to avoid the need for developing government-written standards that could potentially result in regulatory conflicts with updated standards and an increased compliance burden on industry. In this final rule, PHMSA also incorporates by reference two new standards, API RP 5LT and ASTM D2513–09a (excluding section 4.2—*Rework Material*), and updates 21 currently referenced standards and specifications in 49 CFR parts 192, 193, and 195.

According to the annual reports pipeline operators submit to PHMSA, there are over 2,370 entities operating hazardous liquid, natural gas transmission, gathering, distribution systems, and liquefied natural gas facilities as of December 31, 2011. The amendments in this rule should enhance safety and reduce the compliance burden on the regulated industry.

PHMSA estimates the costs of incorporating these standards to be negligible and the net benefits to be high. In fact, industry standards developed and adopted by consensus are largely accepted and followed by the pipeline industry, which assures that the industry is not forced to comply with a number of different standards to accomplish the same safety goal. The majority of pipeline operators already purchase and apply industry standards as part of common business practice.

In addition to incorporating new and updating existing voluntary consensus standards, PHMSA is making non-substantive edits and clarifying regulatory language in certain provisions. Since these editorial changes are relatively minor, this rule would not require pipeline operators to undertake significant new pipeline safety initiatives and would have negligible cost implications. The non-substantive changes will increase the clarity of the pipeline safety regulations, and help improve compliance, and improve the safety of the nation's pipeline systems.

Executive Order 13563 is supplemental to and reaffirms the principles, structures, and definitions governing regulatory review that were established in Executive Order 12866, Regulatory Planning and Review, of September 30, 1993. Additionally, Executive Order 13563 specifically requires agencies to: (1) Involve the public in the regulatory process; (2) promote simplification and harmonization through interagency coordination; (3) identify and consider regulatory approaches that reduce burden and maintain flexibility; (4) ensure the objectivity of any scientific or technological information used to support regulatory action; and (5) consider how to best promote retrospective analysis to modify, streamline, expand, or repeal existing rules that are outmoded, ineffective, insufficient, or excessively burdensome.

When developing this rule, PHMSA involved the public in the regulatory process in a variety of ways. Specifically, PHMSA addressed issues and errors that were identified and tagged for future rulemaking consideration in letters from the regulated community and through meetings and correspondence with stakeholders. PHMSA considered public comments based on the proposals in the NPRM, addressed those comments in the docket, and discussed the proposals with the members of its two advisory committees and public representatives in attendance.

These standards are expected to produce a safety benefit derived from new requirements with minimal additional costs.

C. Executive Order 13132

PHMSA analyzed this final rule in accordance with the principles and criteria contained in Executive Order 13132 (''Federalism''). The final rule does not have a substantial direct effect on the states, the relationship between the national government and the states, or the distribution of power and responsibilities among the various levels of government. The final rule does not impose substantial direct compliance costs on state and local governments nor will it preempt state law for intrastate pipelines. Therefore, the consultation and funding requirements of Executive Order 13132 do not apply.

D. Executive Order 13175

PHMSA analyzed the final rule according to Executive Order 13175, ''Consultation and Coordination with Indian Tribal Governments.'' Because the final rule does not significantly or uniquely affect the communities of the Indian Tribal Governments or impose substantial direct compliance costs, the funding and consultation requirements of Executive Order 13175 do not apply.

E. Regulatory Flexibility Act, Executive Order 13272 and DOT Procedures and Policies

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), requires an agency to review regulations to assess their impact on small entities, unless the agency determines the rule is not expected to have a significant impact on a substantial number of small entities. An example of a small business may include technical experts from a publicly owned natural gas local distribution company.

Technical committees that develop codes and standards are, for the most part, comprised of experts representing the various facets of a given industry, such as manufacturers, installers, insurers, inspectors, end users, distributors and regulatory agencies. Participants represent both large and small businesses and others. An

example of the make-up of a typical standards committee may include representatives (engineers, researchers, or risk management officers) from large and small operating companies, government members (Federal/state), risk management consultants, insurance administrators, academics and individuals. Meetings are open to the public. The committees involved in developing, revising, and approving consensus standards created by organizations such as the API or AGA include technical experts, operating companies, vendors, consultants, academics, and regulators.

The impact of this final rule will not have a significant impact on compliance cost regardless of the size of the firm. The changes update current editions of industry standards to allow for the use of newer or updated safety procedures to promote uniformity among industry practices. Changes in standards employing performance-based approaches have resulted in fewer costly changes to an organization's manufacturing processes.

Consideration of alternative proposals for small businesses: The Regulatory Flexibility Act directs agencies to establish expectations and differing compliance standards for small businesses, where it is possible to do so, while still meeting the objectives of applicable regulatory statutes. In the case of hazardous liquid, natural gas and other types of materials transported by pipeline, any exceptions are considered during the rulemaking process. For the most part, differing standards are not possible due to the type of technical requirements covered by these standards. The impact of this final rule will be minimal. The changes are intended to provide industry guidance through adoption of newer editions of consensus standards and recommended practices.

Based on the facts available about the anticipated impact of this rulemaking, I certify, under Section 605 of the Regulatory Flexibility Act (5 U.S.C. 605), that this final rule will not have a significant economic impact on a substantial number of small entities.

F. Paperwork Reduction Act

This final rule does not impose any new information collection requirements.

G. Regulation Identifier Number

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

H. Unfunded Mandates Reform Act of 1995

This final rule will not impose unfunded mandates under the Unfunded Mandates Reform Act of 1995. It will not result in costs of $100 million (adjusted for inflation currently estimated to be $132 million) or more in any one year to either state, local or tribal governments, in the aggregate, or to the private sector, and would be the least burdensome alternative that achieves the objective of this final rule.

I. Privacy Act Statement

Anyone may search the electronic form of comments received in response to any of our dockets by the name of the individual submitting the comment (or signing the comment if submitted for an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477), or you may visit *http://docketsinfo.dot.gov/*.

J. Environmental Assessment

The National Environmental Policy Act of 1969, 42 U.S.C. 4321–4375, requires Federal agencies to analyze proposed actions to determine whether the action will have a significant impact on the human environment. The Council on Environmental Quality regulations require Federal agencies to conduct an environmental review considering: (1) The need for the proposed action; (2) alternatives to the proposed action; (3) probable environmental impacts of the proposed action and alternatives; and (4) the agencies and persons consulted during the consideration process (40 CFR 1508.9(b)). In this final rule, PHMSA incorporates two new standards (one partially) and incorporates 21 updated standards of those currently referenced. This final rule also makes miscellaneous and editorial changes to the pipeline safety regulations.

Description of Action: The National Technology Transfer and Advancement Act of 1995 directs Federal agencies to use voluntary consensus standards and design specifications developed by voluntary consensus standard bodies instead of government-developed voluntary technical standards, when applicable. There are currently 64 standards incorporated by reference in Parts 192, 193 and 195 of the pipeline safety regulations.

PHMSA engineers and subject matter experts participate on approximately 25 standards development committees to keep current on committee actions. PHMSA will only propose to adopt standards into the Federal regulations that meet the agency's directive(s) to ensure the best interests of public and environmental safety are served.

Purpose and Need: Many of the industry standards currently incorporated by reference in the pipeline safety regulations have been revised and updated to incorporate and promote new technologies and methodologies. This final rule will allow operators to use new technologies by incorporating new editions of the standards into the pipeline safety regulations.

PHMSA's technical experts continually review the actions of pipeline standards developing committees and study industry safety practices to ensure that their endorsement of any new editions or revised standards incorporated into the Federal safety regulations will improve public safety, as well as provide protection for the environment. If PHMSA does not amend the Federal safety standards to keep up with industry practices, it could potentially have an adverse effect on the transportation of energy resources.

These amendments will make the regulatory provisions more consistent with current technology and will therefore promote the safe transportation of hazardous liquids, natural and other gases and liquefied natural gas by pipeline.

Alternatives Considered: In developing this final rule, PHMSA considered two alternatives:

Alternative (1): Take no action and continue to incorporate the existing standards currently referenced in the pipeline safety regulations.

Because PHMSA's goal is to facilitate pipeline safety, PHMSA rejected the alternative to take no action.

Alternative (2): Go forward with the proposed amendments and incorporate updated editions of voluntary consensus standards to allow pipeline operators to use current technologies. This is the selected alternative.

PHMSA's goal is to incorporate by reference all or parts of updated editions of voluntary consensus standards into the pipeline safety regulations to allow pipeline operators to use current technology, new materials, and other industry and management practices. Another goal is to update and clarify certain provisions in the regulations.

Environmental Consequences: The Nation's pipelines are located

throughout the United States, both onshore and offshore, and traverse a variety of environments—from highly populated urban sites to remote, unpopulated rural areas. The Federal pipeline regulatory system is a risk management system that is prevention-oriented and focused on identifying safety hazards and reducing the probability and quantity of a natural gas or hazardous liquid release. Pipeline operators are required to develop and implement IM programs to enhance safety by identifying and reducing pipeline integrity risks.

Pipelines subject to this final rule transport hazardous liquids and natural gas, and therefore a spill or leak of the product could affect the physical environment as well as the health and safety of the public. The release of hazardous liquids or natural gas can cause the loss of cultural and historical resources (*e.g.,* properties listed on the National Register of Historic Places), biological and ecological resources (*e.g.,* coastal zones, wetlands, plant and animal species and their habitats, forests, grasslands, offshore marine ecosystems), special ecological resources (*e.g.,* threatened and endangered plant and animal species and their habitats, national and state parklands, biological reserves, wild and scenic rivers), and the contamination of air, water resources (*e.g.,* oceans, streams, lakes), and soil that exist directly adjacent to and within the vicinity of pipelines. Incidents involving pipelines can result in fires and explosions, causing damage to the local environment. Depending on the size of a spill or gas leak and the nature of the failure zone, the potential impacts could vary from property damage or environmental damage, injuries or, on rare occasions, fatalities.

Compliance with the pipeline safety regulations substantially reduces the possibility of an accidental release of product. Updating new industry standards or those already incorporated into the pipeline safety regulations provides operators with the advantage and added safety of applying newer technologies. These standards are based on the accumulated knowledge and experience of owners, operators, manufacturers, risk management experts and others involved in the pipeline industry or government agencies who write the regulations to ensure the products are moved safely throughout the country. PHMSA staff actively participates in the standards development process to ensure each standard incorporated will enhance safety and environmental protection. Newer editions are not automatically incorporated but reviewed in detail. PHMSA reviewed each of the standards described in this rule and have determined that the majority of the updates include nearly minor changes such as editorial changes, inclusion of a best practices, or similar changes.

The discussion of the standards PHMSA has chosen not to incorporate at this time or that are to be partial incorporated is included under section II of this rule.

Conclusion—Degree of Environmental Impact: PHMSA incorporates consensus standards that will allow the pipeline industry to use improved technologies, new materials, performance-based approaches, manufacturing processes, or other practices to enhance public health, safety and welfare. PHMSA's goal is to ensure hazardous liquids, natural and other gases and liquefied natural gas transported by pipeline will arrive safely to its destination.

PHMSA has determined that the selected alternative will not have a significant impact on the environment.

K. Executive Order 13211

Transporting gas and petroleum affects the Nation's available energy supply. However, this final rule would not be a significant energy action under Executive Order 13211. It also would not be a significant regulatory action under Executive Order 12866 and would not likely have a significant adverse effect on the supply, distribution, or use of energy. Further, the Administrator of the Office of Information and Regulatory Affairs would not be likely to identify this final rule as a significant energy action.

List of Subjects

49 CFR Part 192

Incorporation by reference, Natural gas, Pipeline safety.

49 CFR Part 193

Incorporation by reference, Liquefied natural gas, Pipeline safety.

49 CFR Part 195

Anhydrous ammonia, Carbon dioxide, Incorporation by reference, Petroleum pipeline safety.

49 CFR Part 198

Grant programs—transportation, Pipeline safety, Reporting and recordkeeping requirements.

49 CFR Part 199

Drug and alcohol testing.

In consideration of the foregoing, PHMSA amends 49 CFR parts 192, 193, 195, 198, and 199 as follows:

PART 192—TRANSPORTATION OF NATURAL AND OTHER GAS BY PIPELINE: MINIMUM FEDERAL SAFETY STANDARDS

■ 1. The authority citation for Part 192 continues to read as follows:

Authority: 49 U.S.C. 5103, 60102, 60104, 60108, 60109, 60110, 60113, 60116, 60118 and 60137; and 49 CFR 1.97.

§§ 192.923, 192.925, 192.931, 192.935, 192.939 [Amended]

■ 2. In 49 CFR part 192, remove the term ''NACE SP0502–2008'' and add in its place ''NACE SP0502'' everywhere it appears in the following sections:

■ a. Section 192.923(b)(1);
■ b. Section 192.925(b) introductory text;
■ c. Section 192.925(b)(1) introductory text;
■ d. Section 192.925(b)(1)(ii);
■ e. Section 192.925(b)(2) introductory text;
■ f. Section 192.925(b)(3) introductory text;
■ g. Section 192.925(b)(3)(ii)(A);
■ h. Section 192.925(b)(3)(ii)(B);
■ i. Section 192.925(b)(3)(iv);
■ j. Section 192.925(b)(4) introductory text;
■ k. Section 192.925(b)(4)(ii);
■ l. Section 192.931(d);
■ m. Section 192.935(b)(1)(iv);
■ n. Section 192.939(a)(2).

■ 3. Section 192.7 is revised to read as follows:

§ 192.7 What documents are incorporated by reference partly or wholly in this part?

(a) This part prescribes standards, or portions thereof, incorporated by reference into this part with the approval of the Director of the Federal Register in 5 U.S.C. 552(a) and 1 CFR part 51. The materials listed in this section have the full force of law. To enforce any edition other than that specified in this section, PHMSA must publish a notice of change in the **Federal Register**.

(1) *Availability of standards incorporated by reference.* All of the materials incorporated by reference are available for inspection from several sources, including the following:

(i) The Office of Pipeline Safety, Pipeline and Hazardous Materials Safety Administration, 1200 New Jersey Avenue SE., Washington, DC 20590. For more information contact 202–366–4046 or go to the PHMSA Web site at: *http://www.phmsa.dot.gov/pipeline/regs.*

(ii) The National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030 or go to the NARA Web site at: *http://*

www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.

(iii) Copies of standards incorporated by reference in this part can also be purchased or are otherwise made available from the respective standards-developing organization at the addresses provided in the centralized IBR section below.

(2) [Reserved]

(b) American Petroleum Institute (API), 1220 L Street NW., Washington, DC 20005, phone: 202–682–8000, *http://api.org/.*

(1) API Recommended Practice 5L1, ''Recommended Practice for Railroad Transportation of Line Pipe,'' 7th edition, September 2009, (API RP 5L1), IBR approved for § 192.65(a).

(2) API Recommended Practice 5LT, ''Recommended Practice for Truck Transportation of Line Pipe,'' First edition, March 2012, (API RP 5LT), IBR approved for § 192.65(c).

(3) API Recommended Practice 5LW, ''Recommended Practice for Transportation of Line Pipe on Barges and Marine Vessels,'' 3rd edition, September 2009, (API RP 5LW), IBR approved for § 192.65(b).

(4) API Recommended Practice 80, ''Guidelines for the Definition of Onshore Gas Gathering Lines,'' 1st edition, April 2000, (API RP 80), IBR approved for § 192.8(a).

(5) API Recommended Practice 1162, ''Public Awareness Programs for Pipeline Operators,'' 1st edition, December 2003, (API RP 1162), IBR approved for § 192.616(a), (b), and (c).

(6) API Recommended Practice 1165, ''Recommended Practice for Pipeline SCADA Displays,'' First edition, January 2007, (API RP 1165), IBR approved for § 192.631(c).

(7) API Specification 5L, ''Specification for Line Pipe,'' 45th edition, effective July 1, 2013, (API Spec 5L), IBR approved for §§ 192.55(e); 192.112(a), (b), (d), (e); 192.113; and Item I, Appendix B to Part 192.

(8) ANSI/API Specification 6D, ''Specification for Pipeline Valves,''23rd edition, effective October 1, 2008, including Errata 1 (June 2008), Errata2 (/November 2008), Errata 3 (February 2009), Errata 4 (April 2010), Errata 5 (November 2010), Errata 6 (August 2011) Addendum 1 (October 2009), Addendum 2 (August 2011), and Addendum 3 (October 2012), (ANSI/API Spec 6D), IBR approved for § 192.145(a).

(9) API Standard 1104, ''Welding of Pipelines and Related Facilities,'' 20th edition, October 2005, including errata/addendum (July 2007) and errata 2 (2008), (API Std 1104), IBR approved for §§ 192.225(a); 192.227(a); 192.229(c); 192.241(c); and Item II, Appendix B.

(c) ASME International (ASME), Three Park Avenue, New York, NY 10016, 800–843–2763 (U.S./Canada), *http://www.asme.org/.*

(1) ASME/ANSI B16.1–2005, ''Gray Iron Pipe Flanges and Flanged Fittings: (Classes 25, 125, and 250),'' August 31, 2006, (ASME/ANSI B16.1), IBR approved for § 192.147(c).

(2) ASME/ANSI B16.5–2003, ''Pipe Flanges and Flanged Fittings, ''October 2004, (ASME/ANSI B16.5), IBR approved for §§ 192.147(a) and 192.279.

(3) ASME/ANSI B31G–1991 (Reaffirmed 2004), ''Manual for Determining the Remaining Strength of Corroded Pipelines,'' 2004, (ASME/ANSI B31G), IBR approved for §§ 192.485(c) and 192.933(a).

(4) ASME/ANSI B31.8–2007, ''Gas Transmission and Distribution Piping Systems,'' November 30, 2007, (ASME/ANSI B31.8), IBR approved for §§ 192.112(b) and 192.619(a).

(5) ASME/ANSI B31.8S–2004, ''Supplement to B31.8 on Managing System Integrity of Gas Pipelines,'' 2004, (ASME/ANSI B31.8S–2004), IBR approved for §§ 192.903 note to *Potential impact radius;* 192.907 introductory text, (b); 192.911 introductory text, (i), (k), (l), (m); 192.913(a), (b), (c); 192.917 (a), (b), (c), (d), (e); 192.921(a); 192.923(b); 192.925(b); 192.927(b), (c); 192.929(b); 192.933(c), (d); 192.935 (a), (b); 192.937(c); 192.939(a); and 192.945(a).

(6) ASME Boiler & Pressure Vessel Code, Section I, ''Rules for Construction of Power Boilers 2007,'' 2007 edition, July 1, 2007, (ASME BPVC, Section I), IBR approved for § 192.153(b).

(7) ASME Boiler & Pressure Vessel Code, Section VIII, Division 1 ''Rules for Construction of Pressure Vessels,'' 2007 edition, July 1, 2007, (ASME BPVC, Section VIII, Division 1), IBR approved for §§ 192.153(a), (b), (d); and 192.165(b).

(8) ASME Boiler & Pressure Vessel Code, Section VIII, Division 2 ''Alternate Rules, Rules for Construction of Pressure Vessels,'' 2007 edition, July 1, 2007, (ASME BPVC, Section VIII, Division 2), IBR approved for §§ 192.153(b), (d); and 192.165(b).

(9) ASME Boiler & Pressure Vessel Code, Section IX: ''Qualification Standard for Welding and Brazing Procedures, Welders, Brazers, and Welding and Brazing Operators,'' 2007 edition, July 1, 2007, ASME BPVC, Section IX, IBR approved for §§ 192.225(a); 192.227(a); and Item II, Appendix B to Part 192.

(d) American Society for Testing and Materials (ASTM), 100 Barr Harbor Drive, PO Box C700, West Conshohocken, PA 19428, phone: (610) 832–9585, Web site: *http://www.astm.org/.*

(1) ASTM A53/A53M–10, ''Standard Specification for Pipe, Steel, Black and Hot-Dipped, Zinc-Coated, Welded and Seamless,'' approved October 1, 2010, (ASTM A53/A53M), IBR approved for § 192.113; and Item II, Appendix B to Part 192.

(2) ASTM A106/A106M–10, ''Standard Specification for Seamless Carbon Steel Pipe for High-Temperature Service,'' approved October 1, 2010, (ASTM A106/A106M), IBR approved for § 192.113; and Item I, Appendix B to Part 192.

(3) ASTM A333/A333M–11, ''Standard Specification for Seamless and Welded Steel Pipe for Low-Temperature Service,'' approved April 1, 2011, (ASTM A333/A333M), IBR approved for § 192.113; and Item I, Appendix B to Part 192.

(4) ASTM A372/A372M–10, ''Standard Specification for Carbon and Alloy Steel Forgings for Thin-Walled Pressure Vessels,'' approved October 1, 2010, (ASTM A372/A372M), IBR approved for § 192.177(b).

(5) ASTM A381–96 (reapproved 2005), ''Standard Specification for Metal-Arc Welded Steel Pipe for Use with High-Pressure Transmission Systems,'' approved October 1, 2005, (ASTM A381), IBR approved for § 192.113; and Item I, Appendix B to Part 192.

(6) ASTM A578/A578M–96 (reapproved 2001), ''Standard Specification for Straight-Beam Ultrasonic Examination of Plain and Clad Steel Plates for Special Applications,'' (ASTM A578/A578M), IBR approved for § 192.112(c).

(7) ASTM A671/A671M–10, ''Standard Specification for Electric-Fusion-Welded Steel Pipe for Atmospheric and Lower Temperatures,'' approved April 1, 2010, (ASTM A671/A671M), IBR approved for § 192.113; and Item I, Appendix B to Part 192.

(8) ASTM A672/A672M–09, ''Standard Specification for Electric-Fusion-Welded Steel Pipe for High-Pressure Service at Moderate Temperatures,'' approved October 1, 2009, (ASTM A672/672M), IBR approved for § 192.113 and Item I, Appendix B to Part 192.

(9) ASTM A691/A691M–09, ''Standard Specification for Carbon and Alloy Steel Pipe, Electric-Fusion-Welded for High-Pressure Service at High Temperatures,'' approved October 1, 2009, (ASTM A691/A691M), IBR approved for § 192.113 and Item I, Appendix B to Part 192.

(10) ASTM D638–03, ''Standard Test Method for Tensile Properties of Plastics,'' 2003, (ASTM D638), IBR approved for § 192.283(a) and (b).

(11) ASTM D2513–87, ''Standard Specification for Thermoplastic Gas Pressure Pipe, Tubing, and Fittings,'' (ASTM D2513–87), IBR approved for § 192.63(a).

(12) ASTM D2513–99, ''Standard Specification for Thermoplastic Gas Pressure Pipe, Tubing, and Fittings,'' (ASTM D 2513–99), IBR approved for §§ 192.191(b); 192.281(b); 192.283(a) and Item 1, Appendix B to Part 192.

(13) ASTM D2513–09a, ''Standard Specification for Polyethylene (PE) Gas Pressure Pipe, Tubing, and Fittings,'' approved December 1, 2009, (ASTM D2513–09a), IBR approved for §§ 192.123(e); 192.191(b); 192.283(a); and Item 1, Appendix B to Part 192.

(14) ASTM D2517–00, ''Standard Specification for Reinforced Epoxy Resin Gas Pressure Pipe and Fittings,'' (ASTM D 2517), IBR approved for §§ 192.191(a); 192.281(d); 192.283(a); and Item I, Appendix B to Part 192.

(15) ASTM F1055–1998, ''Standard Specification for Electrofusion Type Polyethylene Fittings for Outside Diameter Controller Polyethylene Pipe and Tubing,'' (ASTM F1055), IBR approved for § 192.283(a).

(e) Gas Technology Institute (GTI), formerly the Gas Research Institute (GRI)), 1700 S. Mount Prospect Road, Des Plaines, IL 60018, phone: 847–768–0500, Web site: *www.gastechnology.org.*

(1) GRI 02/0057 (2002) ''Internal Corrosion Direct Assessment of Gas Transmission Pipelines Methodology,'' (GRI 02/0057), IBR approved for § 192.927(c).

(2) [Reserved]

(f) Manufacturers Standardization Society of the Valve and Fittings Industry, Inc. (MSS), 127 Park St. NE., Vienna, VA 22180, phone: 703–281–6613, Web site: *http://www.mss-hq.org/.*

(1) MSS SP–44–2010, Standard Practice, ''Steel Pipeline Flanges,'' 2010 edition, (including Errata (May 20, 2011)), (MSS SP–44), IBR approved for § 192.147(a).

(2) [Reserved]

(g) NACE International (NACE), 1440 South Creek Drive, Houston, TX 77084: phone: 281–228–6223 or 800–797–6223, Web site: *http://www.nace.org/Publications/.*

(1) ANSI/NACE SP0502–2010, Standard Practice, ''Pipeline External Corrosion Direct Assessment Methodology,'' revised June 24, 2010, (NACE SP0502), IBR approved for §§ 192.923(b); 192.925(b); 192.931(d); 192.935(b) and 192.939(a).

(2) [Reserved]

(h) National Fire Protection Association (NFPA), 1 Batterymarch Park, Quincy, Massachusetts 02169, phone: 1 617 984–7275, Web site: *http://www.nfpa.org/.*

(1) NFPA–30 (2012), ''Flammable and Combustible Liquids Code,'' 2012 edition, June 20, 2011, including Errata 30–12–1 (September 27, 2011) and Errata 30–12–2 (November 14, 2011), (NFPA–30), IBR approved for § 192.735(b).

(2) NFPA–58 (2004), ''Liquefied Petroleum Gas Code (LP-Gas Code),'' (NFPA–58), IBR approved for § 192.11(a), (b), and (c).

(3) NFPA–59 (2004), ''Utility LP-Gas Plant Code,'' (NFPA–59), IBR approved for § 192.11(a), (b); and (c).

(4) NFPA–70 (2011), ''National Electrical Code,'' 2011 edition, issued August 5, 2010, (NFPA–70), IBR approved for §§ 192.163(e); and 192.189(c).

(i) Pipeline Research Council International, Inc. (PRCI), c/o Technical Toolboxes, 3801 Kirby Drive, Suite 520, P.O. Box 980550, Houston, TX 77098, phone: 713–630–0505, toll free: 866–866–6766, Web site: *http://www.ttoolboxes.com/.* (Contract number PR–3–805.)

(1) AGA, Pipeline Research Committee Project, PR–3–805, ''A Modified Criterion for Evaluating the Remaining Strength of Corroded Pipe,'' (December 22, 1989), (PRCI PR–3–805 (R–STRENG)), IBR approved for §§ 192.485(c); 192.933(a) and (d).

(2) [Reserved]

(j) Plastics Pipe Institute, Inc. (PPI), 105 Decker Court, Suite 825 Irving TX 75062, phone: 469–499–1044, *http://www.plasticpipe.org/.*

(1) PPI TR–3/2008 HDB/HDS/PDB/SDB/MRS Policies (2008), ''Policies and Procedures for Developing Hydrostatic Design Basis (HDB), Pressure Design Basis (PDB), Strength Design Basis (SDB), and Minimum Required Strength (MRS) Ratings for Thermoplastic Piping Materials or Pipe, '' May 2008, IBR approved for § 192.121.

(2) [Reserved]

§ 192.11 [Amended]

■ 4. In § 192.11:

■ a. Amend paragraph (a) by removing the term ''ANSI/NFPA 58 and 59'' and adding in its place the term ''NFPA 58 and 59 (incorporated by reference, *see* § 192.7)''.

■ b. Amend paragraph (c) by removing the term ''ANSI/NFPA 58 and 59, ANSI/NFPA 58 and 59'' and adding in its place the term ''NFPA 58 and 59 (incorporated by reference, *see* § 192.7), NFPA 58 and 59''.

§ 192.55 [Amended]

■ 5. In § 192.55, amend paragraph (e) by removing the term ''API Specification 5L'' and adding in its place the term ''API Spec 5L ''(incorporated by reference, see § 192.7)''.

■ 6. In § 192.59, paragraph (d) is added to read as follows:

§ 192.59 Plastic pipe.

* * * * *

(d) Rework and/or regrind material is not allowed in plastic pipe produced after March 6, 2015 used under this part.

■ 7. In § 192.63, paragraph (a)(1) is revised to read as follows:

§ 192.63 Marking of materials.

(a) * * *

(1) As prescribed in the specification or standard to which it was manufactured, except that thermoplastic pipe and fittings made of plastic materials other than polyethylene must be marked in accordance with ASTM D2513–87 (incorporated by reference, *see* § 192.7);

* * * * *

■ 8. Amend § 192.65 as follows:

■ a. In paragraph (a)(1), remove the term ''API Recommended Practice 5L1'' and add in its place the term ''API RP 5L1''.

■ b. In paragraph (b), remove the term ''API Recommended Practice 5LW'' and add in its place the term ''API RP 5LW''.

■ c. Add a new paragraph (c) to read as follows:

§ 192.65 Transportation of pipe.

* * * * *

(c) *Truck.* In a pipeline to be operated at a hoop stress of 20 percent or more of SMYS, an operator may not use pipe having an outer diameter to wall thickness ratio of 70 to 1, or more, that is transported by truck unless the transportation is performed in accordance with API RP 5LT (incorporated by reference, *see* § 192.7).

§ 192.112 [Amended]

■ 9. Amend § 192.112:

■ a. In paragraphs (a)(4), (b)(1)(i), (b)(1)(iii), (d)(1), and (e)(1) by removing the term ''API Specification 5L'' and adding in its place the term ''API Spec 5L''.

■ b. In paragraph (c)(2)(i) by removing the term, ''API 5L'' and adding in its place the term ''API Spec 5L''.

§ 192.113 [Amended]

■ 10. In the Table of § 192.113, remove the term ''API 5 L'' and add in its place the term ''API Spec 5L''.

§ 192.123 [Amended]

■ 11. In § 192.123, revise paragraph (e)(2) to read as follows:

§ 192.123 Design limitations for plastic pipe.

* * * * *

(e) * * *

(2) The material is a polyethylene (PE) pipe with the designation code as specified within ASTM D2513–09a (incorporated by reference, *see* § 192.7);

* * * * *

§ 192.145 [Amended]

■ 12. Amend § 192.145 paragraph (a) by removing the term ''API 6D'' and adding in its place the term ''ANSI/API Spec 6D''.

§ 192.147 [Amended]

■ 13. Amend § 192.147 as follows:

■ a. In paragraph (a), remove the phrase ''ASME/ANSI B 16.5, MSS SP–44'' and add in its place the phrase ''ASME/ANSI B 16.5 and MSS SP–44 (incorporated by reference, *see* § 192.7)''.

■ b. In paragraph (c), remove the term ''ASME/ANSI B16.1'' and add in its place the term ''ASME/ANSI B16.1 (incorporated by reference, *see* § 192.7)''.

■ 14. In § 192.153, revise paragraphs (a), (b), and (d) to read as follows:

§ 192.153 Components fabricated by welding.

(a) Except for branch connections and assemblies of standard pipe and fittings joined by circumferential welds, the design pressure of each component fabricated by welding, whose strength cannot be determined, must be established in accordance with paragraph UG–101 of the ASME Boiler and Pressure Vessel Code (BPVC) (Section VIII, Division 1) (incorporated by reference, *see* § 192.7).

(b) Each prefabricated unit that uses plate and longitudinal seams must be designed, constructed, and tested in accordance with section 1 of the ASME BPVC (Section VIII, Division 1 or Section VIII, Division 2) (incorporated by reference, *see* § 192.7), except for the following:

* * * * *

(d) Except for flat closures designed in accordance with the ASME BPVC (Section VIII, Division 1 or 2), flat closures and fish tails may not be used on pipe that either operates at 100 p.s.i. (689 kPa) gage or more, or is more than 3 inches in (76 millimeters) nominal diameter.

§ 192.163 [Amended]

■ 15. Amend § 192.163 paragraph (e) by removing the term ''National Electrical Code, ANSI/NFPA 70'' and adding in its place ''NFPA–70''.

§ 192.165 [Amended]

■ 16. Amend § 192.165 paragraph (b)(3) by removing the term ''ASME Boiler and Pressure Vessel Code'' and adding in its place the term ''ASME Boiler and Pressure Vessel Code (BPVC) (incorporated by reference, *see* § 192.7)''.

§ 192.177 [Amended]

■ 17. Amend § 192.177 paragraph (b)(1) by removing the term ''ASTM A 372/372'' and adding in its place the term ''ASTM A372/372M (incorporated by reference, *see* § 192.7)''.

§ 192.189 [Amended]

■ 18. Amend § 192.189 paragraph (c) by removing the reference ''ANSI/NFPA 70'' and adding in its place the term ''NFPA–70 (incorporated by reference, *see* § 192.7)''.

§ 192.191 [Amended]

■ 19. In § 192.191, paragraph (b) is revised to read as follows:

§ 192.191 Design pressure of plastic fittings.

* * * * *

(b) Thermoplastic fittings for plastic pipe must conform to ASTM D2513–99 for plastic materials other than polyethylene or ASTM D2513–09a for polyethylene plastic materials.

§ 192.225 [Amended]

■ 20. Amend § 192.225, paragraph (a) is amended as follows:

■ a. Remove the term ''API 1104'' and add in its place the term ''API Std 1104''.

■ b. Remove the term ''ASME Boiler and Pressure Vessel Code, 'Welding and Brazing Qualifications'' and add in its place the term ''ASME Boiler and Pressure Vessel Code (BPVC)''.

§ 192.227 [Amended]

■ 21. In § 192.227, paragraph (a) is amended as follows:

■ a. Remove the term ''API 1104'' and add in its place the term ''API Std 1104''.

■ b. Remove the term ''ASME Boiler and Pressure Vessel Code'' and add in its place the term ''ASME Boiler and Pressure Vessel Code (BPVC)''.

§ 192.229 [Amended]

■ 22. Amend § 192.229 paragraph (c)(1) by removing the term ''API Standard 1104'' and adding in its place the term ''API Std 1104''.

§ 192.241 [Amended]

■ 23. Amend § 192.241 paragraph (c) by removing the terms ''API Standard 1104'' and ''API 1104'' and adding in their place the term ''API Std 1104''.

§ 192.281 [Amended]

■ 24. Amend § 192.281 paragraph (d)(1) by removing the term ''ASTM Designation D 2517'' and adding in its place the term ''ASTM D 2517 (incorporated by reference, *see* § 192.7)''.

■ 25. Amend § 192.283 as follows:

■ a. Revise paragraph (a)(1)(i) to read as set forth below.

■ b. Amend paragraph (a)(1)(iii) by removing the term ''ASTM Designation F1055 (incorporated by reference, see § 192.7)'' and adding in its place the term ''ASTM F1055 (incorporated by reference, see § 192.7)''.

§ 192.283 Plastic pipe: Qualifying joining procedures.

(a) * * *

(1) * * *

(i) In the case of thermoplastic pipe, paragraph 6.6 (Sustained Pressure Test) or paragraph 6.7 (Minimum Hydrostatic Burst Test) of ASTM D2513–99 for plastic materials other than polyethylene or ASTM D2513–09a (incorporated by reference, *see* § 192.7) for polyethylene plastic materials;

* * * * *

§ 192.485 [Amended]

■ 26. Amend § 192.485 paragraph (c) as follows:

■ a. Remove the term ''ASME/ANSI B31G'' and add in its place the term ''ASME/ANSI B31G (incorporated by reference, *see* § 192.7)''.

■ b. Remove the term ''AGA Pipeline Research Committee Project PR 3–805 (with RSTRENG disk)'' and add in its place the term ''PRCI PR 3–805 (R–STRENG) (incorporated by reference, see § 192.7)''.

§ 192.735 [Amended]

■ 27. Amend § 192.735 paragraph (b) by removing the term ''National Fire Protection Association Standard No. 30'' and adding in its place the term ''NFPA–30 (incorporated by reference, see § 192.7)''.

§ 192.903 [Amended]

■ 28. Amend the Note to *Potential impact radius* in § 192.903 by removing the term ''ASME/ANSI B31.8S–2001 (Supplement to ASME B31.8; incorporated by reference, see § 192.7)'' and adding in its place the term

''ASME/ANSI B31.8S (incorporated by reference, *see* § 192.7)''.

■ 29. In § 192.923, paragraphs (a) and (b) are revised to read as follows:

§ 192.923 How is direct assessment used and for what threats?

(a) *General.* An operator may use direct assessment either as a primary assessment method or as a supplement to the other assessment methods allowed under this subpart. An operator may only use direct assessment as the primary assessment method to address the identified threats of external corrosion (EC), internal corrosion (IC), and stress corrosion cracking (SCC).

(b) *Primary method.* An operator using direct assessment as a primary assessment method must have a plan that complies with the requirements in—

(1) Section 192.925 and ASME/ANSI B31.8S (incorporated by reference, see § 192.7) section 6.4, and NACE SP0502 (incorporated by reference, see § 192.7), if addressing external corrosion (EC).

(2) Section 192.927 and ASME/ANSI B31.8S (incorporated by reference, *see* § 192.7), section 6.4, appendix B2, if addressing internal corrosion (IC).

(3) Section 192.929 and ASME/ANSI B31.8S (incorporated by reference, *see* § 192.7), appendix A3, if addressing stress corrosion cracking (SCC).

* * * * *

■ 30. In § 192.933, revise paragraphs (a)(1) and (d)(1)(i) to read as follows:

§ 192.933 What actions must be taken to address integrity issues?

(a) * * *

(1) *Temporary pressure reduction.* If an operator is unable to respond within the time limits for certain conditions specified in this section, the operator must temporarily reduce the operating pressure of the pipeline or take other action that ensures the safety of the covered segment. An operator must determine any temporary reduction in operating pressure required by this section using ASME/ANSI B31G (incorporated by reference, *see* § 192.7); Pipeline Research Council, International, PR–3–805 (R–STRENG) (incorporated by reference, *see* § 192.7); or by reducing the operating pressure to a level not exceeding 80 percent of the level at the time the condition was discovered. An operator must notify PHMSA in accordance with § 192.949 if it cannot meet the schedule for evaluation and remediation required under paragraph (c) of this section and cannot provide safety through a temporary reduction in operating pressure or through another action. An operator must also notify a State pipeline safety authority when either a covered segment is located in a State where PHMSA has an interstate agent agreement or an intrastate covered segment is regulated by that State.

* * * * *

(d) * * *

(1) * * *

(i) A calculation of the remaining strength of the pipe shows a predicted failure pressure less than or equal to 1.1 times the maximum allowable operating pressure at the location of the anomaly. Suitable remaining strength calculation methods include ASME/ANSI B31G (incorporated by reference, see § 192.7), PRCI PR–3–805 (R–STRENG) (incorporated by reference, *see* § 192.7), or an alternative equivalent method of remaining strength calculation.

* * * * *

§ 192.939 [Amended]

■ 31. Amend § 192.939 paragraph (a)(1)(ii) by removing the term ''ASME/ANSI B31.8S'' and adding in its place the term ''ASME B31.8S (incorporated by reference, *see* § 192.7)''.

■ 32. Amend Appendix B to Part 192 as follows:

■ a. Revise Part I to read as set forth below.

■ b. Amend the second paragraph of Part II.A, by removing the term ''ASTM A53'' and adding in its place the term ''ASTM A53/A53M''.

APPENDIX B TO PART 192—QUALIFICATION OF PIPE

I. Listed Pipe Specifications

ANSI/API Specification 5L—Steel pipe, ''Specification for Line Pipe'' (incorporated by reference, see § 192.7).

ASTM A53/A53M—Steel pipe, ''Standard Specification for Pipe, Steel Black and Hot-Dipped, Zinc-Coated, Welded and Seamless'' (incorporated by reference, *see* § 192.7).

ASTM A106/A106M—Steel pipe, ''Standard Specification for Seamless Carbon Steel Pipe for High Temperature Service'' (incorporated by reference, *see* § 192.7).

ASTM A333/A333M—Steel pipe, ''Standard Specification for Seamless and Welded Steel Pipe for Low Temperature Service'' (incorporated by reference, *see* § 192.7).

ASTM A381—Steel pipe, ''Standard Specification for Metal-Arc-Welded Steel Pipe for Use with High-Pressure Transmission Systems'' (incorporated by reference, *see* § 192.7).

ASTM A671/A671M—Steel pipe, ''Standard Specification for Electric-Fusion-Welded Pipe for Atmospheric and Lower Temperatures'' (incorporated by reference, *see* § 192.7).

ASTM A672/672M—Steel pipe, ''Standard Specification for Electric-Fusion-Welded Steel Pipe for High-Pressure Service at Moderate Temperatures'' (incorporated by reference, *see* § 192.7).

ASTM A691/A691M—Steel pipe, ''Standard Specification for Carbon and Alloy Steel Pipe, Electric-Fusion-Welded for High Pressure Service at High Temperatures'' (incorporated by reference, *see* § 192.7).

ASTM D2513–99, ''Standard Specification for Thermoplastic Gas Pressure Pipe, Tubing, and Fittings,'' (incorporated by reference, see § 192.7).

ASTM D2513–09a—Polyethylene thermoplastic pipe and tubing, ''Standard Specification for Polyethylene (PE) gas Pressure Pipe, Tubing, and Fittings'', (incorporated by reference, see § 192.7).

ASTM D2517—Thermosetting plastic pipe and tubing, ''Standard Specification for Reinforced Epoxy Resin Gas Pressure Pipe and Fittings'' (incorporated by reference, *see* § 192.7).

* * * * *

PART 193—LIQUEFIED NATURAL GAS FACILITIES: FEDERAL SAFETY STANDARDS

■ 33. The authority citation for Part 193 continues to read as follows:

Authority: 49 U.S.C. 5103, 60102, 60103, 60104, 60108, 60109, 60110, 60113, 60118; and 49 CFR 1.53.

§§ 193.2019, 193.2051, 193.2057, 193.2301, 193.2303, 193.2401, 193.2521, 193.2639, 193.2639, and 193.2801 [Amended]

■ 34. In 49 CFR part 193, remove the term ''NFPA 59A'' and add in its place ''NFPA–59A–2001'' everywhere it appears in the following sections:

■ a. Section 193.2019(a);

■ b. Section 193.2051;

■ c. Section 193.2057, introductory text;

■ f. Section 193.2301;

■ g. Section 193.2303;

■ h. Section 193.2401;

■ i. Section 193.2521;

■ j. Section 193.2639(a); and

■ k. Section 193.2801.

■ 35. Section 193.2013 is revised to read as follows:

§ 193.2013 What documents are incorporated by reference partly or wholly in this part?

(a) This part prescribes standards, or portions thereof, incorporated by reference into this part with the approval of the Director of the Federal Register in 5 U.S.C. 552(a) and 1 CFR part 51. The materials listed in this section have the full force of law. To enforce any edition other than that specified in this section, PHMSA must publish a notice of change in the **Federal Register**.

(1) *Availability of standards incorporated by reference.* All of the materials incorporated by reference are available for inspection from several sources, including the following:

(i) The Office of Pipeline Safety, Pipeline and Hazardous Materials Safety

Administration, 1200 New Jersey Avenue SE., Washington, DC 20590. For more information contact 202–366–4046 or go to the PHMSA Web site at: *http://www.phmsa.dot.gov/pipeline/regs.*

(ii) The National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030 or go to the NARA Web site at: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

(iii) Copies of standards incorporated by reference in this part can also be purchased or are otherwise made available from the respective standards-developing organization at the addresses provided in the centralized IBR section below.

(b) American Gas Association (AGA), 400 North Capitol Street NW., Washington, DC 20001, and phone: 202–824–7000, Web site: *http://www.aga.org/.*

(1) American Gas Association, ''Purging Principles and Practices,'' 3rd edition, June 2001, (Purging Principles and Practices), IBR approved for §§ 193.2513(b) and (c), 193.2517, and 193.2615(a).

(2) [Reserved]

(c) American Petroleum Institute (API), 1220 L Street NW., Washington, DC 20005, and phone: 202–682–8000, Web site: *http://api.org/.*

(1) API Standard 620, ''Design and Construction of Large, Welded, Low-pressure Storage Tanks,'' 11th edition, February 2008 (including addendum 1 (March 2009), addendum 2 (August 2010), and addendum 3 (March 2012)), (API Std 620), IBR approved for §§ 193.2101(b); 193.2321(b).

(2) [Reserved]

(d) American Society of Civil Engineers (ASCE), 1801 Alexander Bell Drive, Reston, VA 20191, (800) 548–2723, 703 295–6300 (international), Web site: *http://www.asce.org.*

(1) ASCE/SEI 7–05, ''Minimum Design Loads for Buildings and Other Structures'' 2005 edition (including supplement No. 1 and Errata), (ASCE/SEI 7–05), IBR approved for § 193.2067(b).

(2) [Reserved]

(e) ASME International (ASME), Three Park Avenue, New York, NY 10016. 800–843–2763 (U.S/Canada), Web site: *http://www.asme.org/.*

(1) ASME Boiler & Pressure Vessel Code, Section VIII, Division 1: ''Rules for Construction of Pressure Vessels,'' 2007 edition, July 1, 2007, (ASME BPVC, Section VIII, Division 1), IBR approved for § 193.2321(a).

(2) [Reserved]

(f) Gas Technology Institute (GTI), formerly the Gas Research Institute (GRI), 1700 S. Mount Prospect Road, Des Plaines, IL 60018, phone: 847–768–0500, Web site: *www.gastechnology.org.*

(1) GRI–96/0396.5, ''Evaluation of Mitigation Methods for Accidental LNG Releases, Volume 5: Using FEM3A for LNG Accident Consequence Analyses,'' April 1997, (GRI–96/0396.5), IBR approved for § 193.2059(a).

(2) GTI–04/0032 LNGFIRE3: ''A Thermal Radiation Model for LNG Fires'' March 2004, (GTI–04/0032 LNGFIRE3), IBR approved for § 193.2057(a).

(3) GTI–04/0049 ''LNG Vapor Dispersion Prediction with the DEGADIS 2.1: Dense Gas Dispersion Model for LNG Vapor Dispersion,'' April 2004, (GTI–04/0049), IBR approved for § 193.2059(a).

(g) National Fire Protection Association (NFPA), 1 Batterymarch Park, Quincy, MA, 02169 phone: 617–984–7275, Web site: *http://www.nfpa.org/.*

(1) NFPA–59A (2001), ''Standard for the Production, Storage, and Handling of Liquefied Natural Gas (LNG),'' (NFPA–59A–2001), IBR approved for §§ 193.2019(a), 193.2051, 193.2057, 193.2059 introductory text and (c), 193.2101(a), 193.2301, 193.2303, 193.2401, 193.2521, 193.2639(a), and 193.2801.

(2) NFPA 59A (2006), ''Standard for the Production, Storage, and Handling of Liquefied Natural Gas (LNG),'' 2006 edition, approved August 18, 2005, (NFPA–59A–2006), IBR approved for §§ 193.2101(b) and 193.2321(b).

§ 193.2059 [Amended]

■ 36. Amend § 193.2059 as follows:

■ a. Amend the introductory text by removing the term ''NFPA 59A'' and adding in its place the term ''NFPA–59A–2001''.

■ b. Amend paragraph (a) by removing the words ''Gas Research Institute report GRI–89/0242 (incorporated by reference, see § 193.2013), ''LNG Vapor Dispersion Prediction with the DEGADIS Dense Gas Dispersion Model'''' and adding, in its place, ''GTI–04/0049, ''LNG Vapor Dispersion Prediction with the DEGADIS 2.1 Dense Gas Dispersion Model'''' (incorporated by reference, *see* § 193.2013)''.

■ c. Amend paragraph (c) by removing the term ''NFPA 59A'' and adding in its place the term ''NFPA–59A–2001''.

§ 193.2067 [Amended]

■ 37. Amend § 193.2067 paragraph (b)(1) by removing the term ''ASCE/SEI 7–05'' and adding in its place the term ''ASCE/SEI 7''.

§ 193.2101 [Amended]

■ 38. Revise § 193.2101 to read as follows:

§ 193.2101 Scope.

(a) Each LNG facility designed after March 31, 2000 must comply with the requirements of this part and of NFPA–59A–2001 (incorporated by reference, *see* § 193.2013). If there is a conflict between this Part and NFPA–59A–2001, the requirements in this part prevail.

(b) Each stationary LNG storage tank must comply with Section 7.2.2 of NFPA–59A–2006 (incorporated by reference, *see* § 193.2013) for seismic design of field fabricated tanks. All other LNG storage tanks must comply with API Std–620 (incorporated by reference, *see* § 193.2013) for seismic design.

■ 39. In § 193.2321, revise paragraphs (a), (b)(1), and (b)(2) to read as follows:

§ 193.2321 Nondestructive tests.

(a) The butt welds in metal shells of storage tanks with internal design pressure above 15 psig must be nondestructively examined in accordance with the ASME Boiler and Pressure Vessel Code (BPVC) (Section VIII, Division 1)(incorporated by reference, *see* § 193.2013), except that 100 percent of welds that are both longitudinal (or meridional) and circumferential (or latitudinal) of hydraulic load bearing shells with curved surfaces that are subject to cryogenic temperatures must be nondestructively examined in accordance with the ASME BPVC (Section VIII, Division 1).

(b) * * *

(1) Section 7.3.1.2 of NFPA Std–59A–2006, (incorporated by reference, *see* § 193. 2012);

(2) Appendices C and Q of API Std 620, (incorporated by reference, *see* § 193.2013);

* * * * *

§ 193.2513 [Amended]

■ 40. Amend § 193.2513, paragraphs (b)(1) and (c)(5), by removing the words ''AGA ''Purging Principles and Practice'''' and adding, in its place, ''Purging Principles and Practices (incorporated by reference, *see* § 193.2013)''.

§ 193.2517 [Amended]

■ 41. Amend § 193.2517 by removing the words ''AGA ''Purging Principles and Practice'''' and adding, in its place, ''Purging Principles and Practices (incorporated by reference, *see* § 193.2013)''.

§ 193.2615 [Amended]

■ 42. Amend § 193.2615(a) by removing the words ''AGA ''Purging Principles and Practice'''' and adding, in its place, ''Purging Principles and Practices (incorporated by reference, *see* § 193.2013)''.

PART 195—TRANSPORTATION OF HAZARDOUS LIQUIDS BY PIPELINE

■ 43. The authority citation for Part 195 continues to read as follows:

Authority: 49 U.S.C. 5103, 60102, 60104, 60108, 60109, 60116, 60118 and 60137; and 49 CFR 1.53.

§§ 195.5, 195.406 [Amended]

■ 44. Amend 49 CFR part 195 by removing the term ''ASME B31.8'' and adding in its place the term ''ASME/ANSI B31.8 (incorporated by reference, *see* § 195.3)'' in the following sections.

■ a. Section 195.5 paragraph (a)(1)(i);

■ b. Section 195.406 paragraph (a)(1)(i).

■ 45. Section 195.3 is revised to read as follows:

§ 195.3 What documents are incorporated by reference partly or wholly in this part?

(a) This part prescribes standards, or portions thereof, incorporated by reference into this part with the approval of the Director of the Federal Register in 5 U.S.C. 552(a) and 1 CFR part 51. The materials listed in this section have the full force of law. To enforce any edition other than that specified in this section, PHMSA must publish a notice of change in the **Federal Register**.

(1) *Availability of standards incorporated by reference.* All of the materials incorporated by reference are available for inspection from several sources, including the following:

(i) The Office of Pipeline Safety, Pipeline and Hazardous Materials Safety Administration, 1200 New Jersey Avenue SE., Washington, DC 20590. For more information contact 202–366–4046 or go to the PHMSA Web site at: *http://www.phmsa.dot.gov/pipeline/regs.*

(ii) The National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030 or go to the NARA Web site at: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

(iii) Copies of standards incorporated by reference in this part can also be purchased from the respective standards-developing organization at the addresses provided in the centralized IBR section below.

(b) American Petroleum Institute (API), 1220 L Street NW., Washington, DC 20005, and phone: 202–682–8000, Web site: *http://api.org/.*

(1) API Publication 2026, ''Safe Access/Egress Involving Floating Roofs of Storage Tanks in Petroleum Service,'' 2nd edition, April 1998 (reaffirmed June 2006) (API Pub 2026), IBR approved for § 195.405(b).

(2) API Recommended Practice 5L1, ''Recommended Practice for Railroad Transportation of Line Pipe,'' 7th edition, September 2009, (API RP 5L1), IBR approved for § 195.207(a).

(3) API Recommended Practice 5LT, ''Recommended Practice for Truck Transportation of Line Pipe,'' First edition, March 12, 2012, (API RP 5LT), IBR approved for § 195.207(c).

(4) API Recommended Practice 5LW, ''Recommended Practice Transportation of Line Pipe on Barges and Marine Vessels,'' 3rd edition, September 2009, (API RP 5LW), IBR approved for § 195.207(b).

(5) ANSI/API Recommended Practice 651, ''Cathodic Protection of Aboveground Petroleum Storage Tanks,'' 3rd edition, January 2007, (ANSI/API RP 651), IBR approved for §§ 195.565 and 195.573(d).

(6) ANSI/API Recommended Practice 652, ''Linings of Aboveground Petroleum Storage Tank Bottoms,'' 3rd edition, October 2005, (API RP 652), IBR approved for § 195.579(d).

(7) API Recommended Practice 1130, ''Computational Pipeline Monitoring for Liquids: Pipeline Segment,'' 3rd edition, September 2007, (API RP 1130), IBR approved for §§ 195.134 and 195.444.

(8) API Recommended Practice 1162, ''Public Awareness Programs for Pipeline Operators,'' 1st edition, December 2003, (API RP 1162), IBR approved for § 195.440(a), (b), and (c).

(9) API Recommended Practice 1165, ''Recommended Practice for Pipeline SCADA Displays,'' First edition, January 2007, (API RP 1165), IBR approved for § 195.446(c).

(10) API Recommended Practice 1168, ''Pipeline Control Room Management,'' First edition, September 2008, (API RP 1168), IBR approved for § 195.446(c) and (f).

(11) API Recommended Practice 2003, ''Protection against Ignitions Arising out of Static, Lightning, and Stray Currents,'' 7th edition, January 2008, (API RP 2003), IBR approved for § 195.405(a).

(12) API Recommended Practice 2350, ''Overfill Protection for Storage Tanks in Petroleum Facilities,'' 3rd edition, January 2005, (API RP 2350), IBR approved for § 195.428(c).

(13) API Specification 5L, ''Specification for Line Pipe,'' 45th edition, effective July 1, 2013, (ANSI/API Spec 5L), IBR approved for § 195.106(b) and (e).

(14) ANSI/API Specification 6D, ''Specification for Pipeline Valves,'' 23rd edition, effective October 1, 2008, (including Errata 1 (June 2008), Errata 2 (November 2008), Errata 3 (February 2009), Errata 4 (April 2010), Errata 5 (November 2010), and Errata 6 (August 2011); Addendum 1 (October 2009), Addendum 2 (August 2011), and Addendum 3 (October 2012)); (ANSI/API Spec 6D), IBR approved for § 195.116(d).

(15) API Specification 12F, ''Specification for Shop Welded Tanks for Storage of Production Liquids,'' 12th edition, October 2008, effective April 1, 2009, (API Spec 12F), IBR approved for §§ 195.132(b); 195.205(b); 195.264(b) and (e); 195.307(a); 195.565; 195.579(d).

(16) API Standard 510, ''Pressure Vessel Inspection Code: In-Service Inspection, Rating, Repair, and Alteration,'' 9th edition, June 2006, (API Std 510), IBR approved for §§ 195.205(b); 195.432(c).

(17) API Standard 620, ''Design and Construction of Large, Welded, Low-Pressure Storage Tanks,'' 11th edition February 2008 (including addendum 1 (March 2009), addendum 2 (August 2010), and addendum 3 (March 2012)), (API Std 620), IBR approved for §§ 195.132(b); 195.205(b); 195.264(b) and (e); 195.307(b); 195.565, 195.579(d).

(18) API Standard 650, ''Welded Steel Tanks for Oil Storage,'' 11th edition, June 2007, effective February 1, 2012, (including addendum 1 (November 2008), addendum 2 (November 2009), addendum 3 (August 2011), and errata (October 2011)), (API Std 650), IBR approved for §§ 195.132(b); 195.205(b); 195.264(b), (e); 195.307(c) and (d); 195.565; 195.579(d).

(19) API Standard 653, ''Tank Inspection, Repair, Alteration, and Reconstruction,'' 3rd edition, December 2001, (including addendum 1 (September 2003), addendum 2 (November 2005), addendum 3 (February 2008), and errata (April 2008)), (API Std 653), IBR approved for §§ 195.205(b), 195.307(d), and 195.432(b).

(20) API Standard 1104, ''Welding of Pipelines and Related Facilities,'' 20th edition, October 2005, (including errata/addendum (July 2007) and errata 2 (2008), (API Std 1104)), IBR approved for §§ 195.214(a), 195.222(a) and (b), 195.228(b).

(21) ANSI/API Standard 2000, ''Venting Atmospheric and Low-pressure Storage Tanks,'' 6th edition, November 2009, (ANSI/API Std 2000), IBR approved for § 195.264(e).

(22) API Standard 2510, ''Design and Construction of LPG Installations,'' 8th edition, 2001, (API Std 2510), IBR approved for §§ 195.132(b), 195.205(b), 195.264 (b), (e); 195.307 (e), 195.428 (c); and 195.432 (c).

(c) ASME International (ASME), Two Park Avenue, New York, NY 10016, 800–843–2763 (U.S/Canada), Web site: *http://www.asme.org/.*

(1) ASME/ANSI B16.9–2007, ''Factory-Made Wrought Buttwelding Fittings,'' December 7, 2007, (ASME/ANSI B16.9), IBR approved for § 195.118(a).

(2) ASME/ANSI B31G–1991 (Reaffirmed 2004), ''Manual for Determining the Remaining Strength of Corroded Pipelines,'' 2004, (ASME/ANSI B31G), IBR approved for §§ 195.452(h); and 195.587.

(3) ASME/ANSI B31.4–2006, ''Pipeline Transportation Systems for Liquid Hydrocarbons and Other Liquids'' October 20, 2006, (ASME/ANSI B31.4), IBR approved for §§ 195.110(a); 195.452(h).

(4) ASME/ANSI B31.8–2007, ''Gas Transmission and Distribution Piping Systems,'' November 30, 2007, (ASME/ANSI B31.8), IBR approved for §§ 195.5(a) and 195.406(a).

(5) ASME Boiler & Pressure Vessel Code, Section VIII, Division 1, ''Rules for Construction of Pressure Vessels,'' 2007 edition, July 1, 2007, (ASME BPVC, Section VIII, Division 1), IBR approved for §§ 195.124 and 195.307(e).

(6) ASME Boiler & Pressure Vessel Code, Section VIII, Division 2, ''Alternate Rules, Rules for Construction of Pressure Vessels,'' 2007 edition, July 1, 2007, (ASME BPVC, Section VIII, Division 2), IBR approved for § 195.307(e).

(7) ASME Boiler & Pressure Vessel Code, Section IX: ''Qualification Standard for Welding and Brazing Procedures, Welders, Brazers, and Welding and Brazing Operators,'' 2007 edition, July 1, 2007, (ASME BPVC, Section IX), IBR approved for § 195.222(a).

(d) American Society for Testing and Materials (ASTM), 100 Barr Harbor Drive, P.O. Box C700, West Conshohocken, PA 119428, phone: 610–832–9585, Web site: *http://www.astm.org/.*

(1) ASTM A53/A53M–10, ''Standard Specification for Pipe, Steel, Black and Hot-Dipped, Zinc-Coated, Welded and Seamless,'' approved October 1, 2010, (ASTM A53/A53M), IBR approved for § 195.106(e).

(2) ASTM A106/A106M–10, ''Standard Specification for Seamless Carbon Steel Pipe for High-Temperature Service,'' approved April 1, 2010, (ASTM A106/A106M), IBR approved for § 195.106(e).

(3) ASTM A333/A333M–11, ''Standard Specification for Seamless and Welded Steel Pipe for Low-Temperature Service,'' approved April 1, 2011, (ASTM A333/A333M), IBR approved for § 195.106(e).

(4) ASTM A381–96 (Reapproved 2005), ''Standard Specification for Metal-Arc Welded Steel Pipe for Use with High-Pressure Transmission Systems,'' approved October 1, 2005, (ASTM A381), IBR approved for § 195.106(e).

(5) ASTM A671/A671M–10, ''Standard Specification for Electric-Fusion-Welded Steel Pipe for Atmospheric and Lower Temperatures,'' approved April 1, 2010, (ASTM A671/A671M), IBR approved for § 195.106(e).

(6) ASTM A672/A672M–09, ''Standard Specification for Electric-Fusion-Welded Steel Pipe for High-Pressure Service at Moderate Temperatures,'' approved October 1, 2009, (ASTM A672/A672M), IBR approved for § 195.106(e).

(7) ASTM A691/A691M–09, ''Standard Specification for Carbon and Alloy Steel Pipe, Electric-Fusion-Welded for High-Pressure Service at High Temperatures,'' approved October 1, 2009, (ASTM A691), IBR approved for § 195.106(e).

(e) Manufacturers Standardization Society of the Valve and Fittings Industry, Inc. (MSS), 127 Park St. NE., Vienna, VA 22180, phone: 703–281–6613, Web site: *http://www.mss-hq.org/.*

(1) MSS SP–75–2008 Standard Practice, ''Specification for High-Test, Wrought, Butt-Welding Fittings,'' 2008 edition, (MSS SP 75), IBR approved for § 195.118(a).

(2) [Reserved]

(f) NACE International (NACE), 1440 South Creek Drive, Houston, TX 77084, phone: 281–228–6223 or 800–797–6223, Web site: *http://www.nace.org/Publications/.*

(1) NACE SP0169–2007, Standard Practice, ''Control of External Corrosion on Underground or Submerged Metallic Piping Systems'' reaffirmed March 15, 2007, (NACE SP0169), IBR approved for §§ 195.571 and 195.573(a).

(2) ANSI/NACE SP0502–2010, Standard Practice, ''Pipeline External Corrosion Direct Assessment Methodology,'' June 24, 2010, (NACE SP0502), IBR approved for § 195.588(b).

(g) National Fire Protection Association (NFPA), 1 Batterymarch Park, Quincy, MA 02169, phone: 617–984–7275, Web site: *http://www.nfpa.org/.*

(1) NFPA–30 (2012), ''Flammable and Combustible Liquids Code,'' including Errata 30–12–1 (9/27/11), and Errata 30–12–2 (11/14/11), 2012 edition, copyright 2011, (NFPA–30), IBR approved for § 195.264(b).

(2) [Reserved]

(h) Pipeline Research Council International, Inc. (PRCI), c/o Technical Toolboxes, 3801 Kirby Drive, Suite 520, P.O. Box 980550, Houston, TX 77098, phone: 713–630–0505, toll free: 866–866–6766, Web site: *http://www.ttoolboxes.com/.*

(1) AGA Pipeline Research Committee, Project PR–3–805 ''A Modified Criterion for Evaluating the Remaining Strength of Corroded Pipe,'' December 22, 1989, (PR–3–805 (RSTRING)). IBR approved for §§ 195.452(h); 195.587.

(2) [Reserved]

■ 46. Amend § 195.106 as follows:

■ a. In paragraph (b)(1)(i), remove the term ''API Specification 5L'' and add in its place the term ''ANSI/API Spec 5L (incorporated by reference, see § 195.3)''.

■ b. Revise paragraph (e) to read as follows:

§ 195.106 Internal design pressure.

* * * * *

(e)(1) The seam joint factor used in paragraph (a) of this section is determined in accordance with the following standards incorporated by reference (*see* § 195.3):

Specification	Pipe class	Seam joint factor
ASTM A53/A53M	Seamless	1.00
	Electric resistance welded	1.00
	Furnace lap welded	0.80
	Furnace butt welded	0.60
ASTM A106/A106M	Seamless	1.00
ASTM A333/A333M	Seamless	1.00
	Welded	1.00

Specification	Pipe class	Seam joint factor
ASTM A381	Double submerged arc welded	1.00
ASTM A671/A671M	Electric-fusion-welded	1.00
ASTM A672/A672M	Electric-fusion-welded	1.00
ASTM A691/A691M	Electric-fusion-welded	1.00
ANSI/API Spec 5L	Seamless	1.00
	Electric resistance welded	1.00
	Electric flash welded	1.00
	Submerged arc welded	1.00
	Furnace lap welded	0.80
	Furnace butt welded	0.60

(2) The seam joint factor for pipe that is not covered by this paragraph must be approved by the Administrator.

§ 195.116 [Amended]

■ 47. Amend § 195.116 (d) by removing the term ''API Standard 6D'' and adding in its place the term ''ANSI/API Spec 6D''.

§ 195.118 [Amended]

■ 48. Amend § 195.118 paragraph (a) by removing the term ''ASME/ANSI B16.9 or MSS Standard Practice SP–75'' and adding in its place the term ''ASME/ANSI B16.9 or MSS SP–75 (incorporated by reference, *see* § 195.3)''.

■ 49. Section 195.124 is revised to read as follows:

§ 195.124 Closures.

Each closure to be installed in a pipeline system must comply with the 2007 ASME Boiler and Pressure Vessel Code (BPVC) (Section VIII, Division 1) (incorporated by reference, *see* § 195.3) and must have pressure and temperature ratings at least equal to those of the pipe to which the closure is attached.

§ 195.132 [Amended]

■ 50. Amend § 195.132 as follows:

■ a. Amend paragraph (b)(1) by removing the term ''API Specification 12F'' and adding in its place ''API Spec 12F (incorporated by reference, see § 195.3)''.

■ b. Amend paragraph (b)(2) by removing the term ''API Standard 620'' and adding in its place ''API Std 620 (incorporated by reference, *see* § 195.3)''.

■ c. Amend paragraph (b)(3) by removing the term ''API Standard 650'' and adding in its place ''API Std 650 (incorporated by reference, *see* § 195.3)''.

■ d. Amend paragraph (b)(4) by removing the term ''API Standard 2510'' and adding in its place ''API Std 2510 (incorporated by reference, *see* § 195.3)''.

§ 195.134 [Amended]

■ 51. Amend § 195.134 by removing the term ''API 1130'' and adding in its place ''API RP 1130 (incorporated by reference, *see* § 195.3)'' the first instance and ''API RP 1130'' the second instance.

■ 52. In 195.205, paragraph (b) is revised to read as follows:

§ 195.205 Repair, alteration and reconstruction of aboveground breakout tanks that have been in service.

* * * * *

(b) After October 2, 2000, compliance with paragraph (a) of this section requires the following:

(1) For tanks designed for approximate atmospheric pressure, constructed of carbon and low alloy steel, welded or riveted, and non-refrigerated; and for tanks built to API Std 650 (incorporated by reference, see § 195.3) or its predecessor Standard 12C; repair, alteration; and reconstruction must be in accordance with API Std 653 (except section 6.4.3) (incorporated by reference, *see* § 195.3).

(2) For tanks built to API Spec 12F (incorporated by reference, see § 195.3) or API Std 620 (incorporated by reference, *see* § 195.3), repair, alteration, and reconstruction must be in accordance with the design, welding, examination, and material requirements of those respective standards.

(3) For high-pressure tanks built to API Std 2510 (incorporated by reference, *see* § 195.3), repairs, alterations, and reconstruction must be in accordance with API Std 510 (incorporated by reference, *see* § 195.3).

■ 53. Amend § 195.207 as follows:

■ a. In paragraph (a), remove the term ''API Recommended Practice 5L1'' and add in its place the term ''API RP 5L1.''

■ b. In paragraph (b), remove the term ''API Recommended Practice 5LW'' and add in its place the term ''API RP 5LW.''

■ c. Add a new paragraph (c) to read as set forth below:

§ 195.207 Transportation of pipe.

* * * * *

(c) *Truck.* In a pipeline to be operated at a hoop stress of 20 percent or more of SMYS, an operator may not use pipe having an outer diameter to wall thickness ratio of 70 to 1, or more, that is transported by truck unless the transportation is performed in accordance with API RP 5LT (incorporated by reference, *see* § 195.3).

■ 54. In § 195.214, revise paragraph (a) to read as follows:

§ 195.214 Welding procedures.

(a) Welding must be performed by a qualified welder in accordance with welding procedures qualified under Section 5 of API Std 1104 or Section IX of the ASME Boiler and Pressure Vessel Code (ASME BPVC) (incorporated by reference, *see* § 195.3). The quality of the test welds used to qualify the welding procedure shall be determined by destructive testing.

* * * * *

■ 55. In § 195.222, revise the section heading and paragraphs (a) and (b)(2) to read as follows:

§ 195.222 Welders: Qualification of welders and welding operators.

(a) Each welder or welding operator must be qualified in accordance with section 6 or 12 of API Std 1104 (incorporated by reference, *see* § 195.3) or with Section IX of ASME Boiler and Pressure Vessel Code (BPVC) (incorporated by reference, *see* § 195.3), except that a welder qualified under an earlier edition than listed in § 195.3 may weld but may not re-qualify under that earlier edition.

(b) * * *

(2) Had one weld tested and found acceptable under section 9 or Appendix A of API Std 1104 (incorporated by reference, *see* § 195.3).

§ 195.228 [Amended]

■ 56. Amend § 195.228(b) by removing the term ''API 1104'' and adding in its place the term ''API Std 1104'' in two locations.

■ 57. In § 195.264, paragraphs (b)(1) and (2) and (e)(1) through (4) are revised to read as follows:

§ 195.264 Impoundment, protection against entry, normal/emergency venting or pressure/vacuum relief, for aboveground breakout tanks.

* * * * *

(b) * * *

(1) For tanks built to API Spec 12F, API Std 620, and others (such as API Std 650 (or its predecessor Standard 12C)), the installation of impoundment must be in accordance with the following sections of NFPA–30 (incorporated by reference, *see* § 195.3);

(i) Impoundment around a breakout tank must be installed in accordance with section 22.11.2; and

(ii) Impoundment by drainage to a remote impounding area must be installed in accordance with section 22.11.1.

(2) For tanks built to API Std 2510 (incorporated by reference, see § 195.3), the installation of impoundment must be in accordance with section 5 or 11 of API Std 2510.

* * * * *

(e) * * *

(1) Normal/emergency relief venting installed on atmospheric pressure tanks built to API Spec 12F must be in accordance with section 4 and Appendices B and C of API Spec 12F (incorporated by reference, see § 195.3).

(2) Normal/emergency relief venting installed on atmospheric pressure tanks (such as those built to API Std 650 or its predecessor Standard 12C) must be in accordance with API Std 2000 (incorporated by reference, *see* § 195.3).

(3) Pressure-relieving and emergency vacuum-relieving devices installed on low-pressure tanks built to API Std 620 must be in accordance with Section 9 of API Std 620 (incorporated by reference, see § 195.3) and its references to the normal and emergency venting requirements in API Std 2000 (incorporated by reference, *see* § 195.3).

(4) Pressure and vacuum-relieving devices installed on high-pressure tanks built to API Std 2510 must be in accordance with sections 7 or 11 of API Std 2510 (incorporated by reference, *see* § 195.3).

■ 58. Section 195.307 is revised to read as follows:

§ 195.307 Pressure testing aboveground breakout tanks.

(a) For aboveground breakout tanks built to API Spec 12F (incorporated by reference, *see* § 195.3) and first placed in service after October 2, 2000, pneumatic testing must be performed in accordance with section 5.3 of API Spec 12 F.

(b) For aboveground breakout tanks built to API Std 620 (incorporated by reference, *see* § 195.3) and first placed in service after October 2, 2000, hydrostatic and pneumatic testing must be performed in accordance with section 7.18 of API Std 620.

(c) For aboveground breakout tanks built to API Std 650 (incorporated by reference, *see* § 195.3) and first placed in service after October 2, 2000, testing must be performed in accordance with Sections 7.3.5 and 7.3.6 of API Standard 650.

(d) For aboveground atmospheric pressure breakout tanks constructed of carbon and low alloy steel, welded or riveted, and non-refrigerated; and tanks that are returned to service after October 2, 2000, and are built to API Std 650 (incorporated by reference, *see* § 195.3) or its predecessor Standard 12C; the necessity for the hydrostatic testing of repair, alteration, and reconstruction is covered in Section 12.3 of API Std 653.

(e) For aboveground breakout tanks built to API Std 2510 (incorporated by reference, *see* § 195.3) and first placed in service after October 2, 2000, pressure testing must be performed in accordance with 2007 ASME Boiler and Pressure Vessel Code (BPVC) (Section VIII, Division 1 or 2).

■ 59. Section 195.405 is revised to read as follows:

§ 195.405 Protection against ignitions and safe access/egress involving floating roofs.

(a) After October 2, 2000, protection provided against ignitions arising out of static electricity, lightning, and stray currents during operation and maintenance activities involving aboveground breakout tanks must be in accordance with API RP 2003 (incorporated by reference, *see* § 195.3), unless the operator notes in the procedural manual (§ 195.402(c)) why compliance with all or certain provisions of API RP 2003 is not necessary for the safety of a particular breakout tank.

(b) The hazards associated with access/egress onto floating roofs of in-service aboveground breakout tanks to perform inspection, service, maintenance, or repair activities (other than specified general considerations, specified routine tasks or entering tanks removed from service for cleaning) are addressed in API Pub 2026 (incorporated by reference, see § 195.3). After October 2, 2000, the operator must review and consider the potentially hazardous conditions, safety practices, and procedures in API Pub 2026 for inclusion in the procedure manual (§ 195.402(c)).

■ 60. In § 195.432, revise paragraphs (b) and (c) to read as follows:

§ 195.432 Inspection of in-service breakout tanks.

* * * * *

(b) Each operator must inspect the physical integrity of in-service atmospheric and low-pressure steel above-ground breakout tanks according to API Std 653 (except section 6.4.3, *Alternative Internal Inspection Interval*) (incorporated by reference, *see* § 195.3). However, if structural conditions prevent access to the tank bottom, its integrity may be assessed according to a plan included in the operations and maintenance manual under § 195.402(c)(3). The risk-based internal inspection procedures in API Std 653, section 6.4.3 cannot be used to determine the internal inspection interval.

(1) Operators who established internal inspection intervals based on risk-based inspection procedures prior to March 6, 2015 must re-establish internal inspection intervals based on API Std 653, section 6.4.2 (incorporated by reference, *see* § 195.3).

(i) If the internal inspection interval was determined by the prior risk-based inspection procedure using API Std 653, section 6.4.3 and the resulting calculation exceeded 20 years, and it has been more than 20 years since an internal inspection was performed, the operator must complete a new internal inspection in accordance with § 195.432(b)(1) by January 5, 2017.

(ii) If the internal inspection interval was determined by the prior risk-based inspection procedure using API Std 653, section 6.4.3 and the resulting calculation was less than or equal to 20 years, and the time since the most recent internal inspection exceeds the re-established inspection interval in accordance with § 195.432(b)(1), the operator must complete a new internal inspection by January 5, 2017.

(iii) If the internal inspection interval was not based upon current engineering and operational information (*i.e.,* actual corrosion rate of floor plates, actual remaining thickness of the floor plates, etc.), the operator must complete a new internal inspection by January 5, 2017 and re-establish a new internal inspection interval in accordance with § 195.432(b)(1).

(2) [Reserved]

(c) Each operator must inspect the physical integrity of in-service steel aboveground breakout tanks built to API Std 2510 (incorporated by reference, see § 195.3) according to section 6 of API Std 510 (incorporated by reference, *see* § 195.3).

* * * * *

§ 195.444 [Amended]

■ 61. Amend § 195.444 by removing the term ''API 1130'' and adding in its place ''API RP 1130 (incorporated by reference, *see* § 195.3).''

■ 62. In § 195.452, revise paragraphs (h)(4)(i)(B), (h)(4)(iii)(D), and paragraph (l)(1) to read as follows:

§ 195.452 Pipeline integrity management in high consequence areas.

* * * * *

(h) * * *

(4) * * *

(i) * * *

(B) A calculation of the remaining strength of the pipe shows a predicted burst pressure less than the established maximum operating pressure at the location of the anomaly. Suitable remaining strength calculation methods include, but are not limited to, ASME/ANSI B31G (incorporated by reference, see § 195.3) and PRCI PR–3–805 (R–STRENG) (incorporated by reference, *see* § 195.3).

* * * * *

(iii) * * *

(D) A calculation of the remaining strength of the pipe shows an operating pressure that is less than the current established maximum operating pressure at the location of the anomaly. Suitable remaining strength calculation methods include, but are not limited to, ASME/ANSI B31G and PRCI PR–3–805 (R–STRENG).

* * * * *

(l) *What records must an operator keep to demonstrate compliance*?—(1) An operator must maintain, for the useful life of the pipeline, records that demonstrate compliance with the requirements of this subpart. At a minimum, an operator must maintain the following records for review during an inspection:

(i) A written integrity management program in accordance with paragraph (b) of this section.

(ii) Documents to support the decisions and analyses, including any modifications, justifications, deviations and determinations made, variances, and actions taken, to implement and evaluate each element of the integrity management program listed in paragraph (f) of this section.

* * * * *

■ 63. Section 195.565 is revised to read as follows:

§ 195.565 How do I install cathodic protection on breakout tanks?

After October 2, 2000, when you install cathodic protection under § 195.563(a) to protect the bottom of an aboveground breakout tank of more than 500 barrels 79.49m3 capacity built to API Spec 12F (incorporated by reference, *see* § 195.3), API Std 620 (incorporated by reference, *see* § 195.3), API Std 650 (incorporated by reference, *see* § 195.3), or API Std 650's predecessor, Standard 12C, you must install the system in accordance with ANSI/API RP 651 (incorporated by reference, *see* § 195.3). However, you don't need to comply with ANSI/API RP 651 when installing any tank for which you note in the corrosion control procedures established under § 195.402(c)(3) why complying with all or certain provisions of ANSI/API RP 651 is not necessary for the safety of the tank.

■ 64. In § 195.573, revise paragraph (d) to read as follows:

§ 195.573 What must I do to monitor external corrosion control?

* * * * *

(d) *Breakout tanks.* You must inspect each cathodic protection system used to control corrosion on the bottom of an aboveground breakout tank to ensure that operation and maintenance of the system are in accordance with API RP 651 (incorporated by reference, *see* § 195.3). However, this inspection is not required if you note in the corrosion control procedures established under § 195.402(c)(3) why complying with all or certain operation and maintenance provisions of API RP 651 is not necessary for the safety of the tank.

* * * * *

■ 65. In § 195.579, revise paragraph (d) to read as follows:

§ 195.579 What must I do to mitigate internal corrosion?

* * * * *

(d) *Breakout tanks.* After October 2, 2000, when you install a tank bottom lining in an aboveground breakout tank built to API Spec 12F (incorporated by reference, *see* § 195.3), API Std 620 (incorporated by reference, *see* § 195.3), API Std 650 (incorporated by reference, *see* § 195.3), or API Std 650's predecessor, Standard 12C, you must install the lining in accordance with API RP 652 (incorporated by reference, *see* § 195.3). However, you don't need to comply with API RP 652 when installing any tank for which you note in the corrosion control procedures established under § 195.402(c)(3) why compliance with all or certain provisions of API RP 652 is not necessary for the safety of the tank.

■ 66. Section 195.587 is revised to read as follows:

§ 195.587 What methods are available to determine the strength of corroded pipe?

Under § 195.585, you may use the procedure in ASME/ANSI B31G (incorporated by reference, *see* § 195.3) or in PRCI PR–3–805 (R–STRENG) (incorporated by reference, *see* § 195.3) to determine the strength of corroded pipe based on actual remaining wall thickness. These procedures apply to corroded regions that do not penetrate the pipe wall, subject to the limitations set out in the respective procedures.

PART 198—REGULATIONS FOR GRANTS TO AID STATE PIPELINE SAFETY PROGRAMS

■ 67. The authority citation for Part 198 continues to read as follows:

Authority: 49 U.S.C. 60105, 60106, 60114, and 49 CFR 1.53.

§ 198.37 [Amended]

■ 68. Amend paragraph (f) by removing the phrase ''§ 192.614 (b)(4) through (b)(6)'' and adding in its place ''§ 192.614 (c)(4) through (c)(6).''

PART 199—DRUG AND ALCOHOL TESTING

■ 69. The authority citation for Part 199 continues to read as follows:

Authority: 49 U.S.C. 5103, 60102, 60104, 60108, 60117, and 60118; and 49 CFR 1.53.

§ 199.111 [Removed and Reserved]

■ 70. Remove and reserve § 199.111.

Issued in Washington, DC, on December 18, 2014, under authority delegated in 49 CFR 1.97(a).

Timothy P. Butters,

Acting Administrator.

[FR Doc. 2014–30336 Filed 1–2–15; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 131021878–4158–02]

RIN 0648–XD693

Fisheries of the Exclusive Economic Zone Off Alaska; Inseason Adjustment to the 2015 Bering Sea and Aleutian Islands Pollock, Atka Mackerel, and Pacific Cod Total Allowable Catch Amounts

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

ACTION: Temporary rule; inseason adjustment; request for comments.

SUMMARY: NMFS is adjusting the 2015 total allowable catch (TAC) amounts for the Bering Sea and Aleutian Islands (BSAI) pollock, Atka mackerel, and Pacific cod fisheries. This action is necessary because NMFS has determined these TACs are incorrectly specified, and will ensure the BSAI pollock, Atka mackerel, and Pacific cod TACs are the appropriate amounts based on the best available scientific information. This action is consistent with the goals and objectives of the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), January 1, 2015, until the effective date of the final 2015 and 2016 harvest specifications for BSAI groundfish, unless otherwise modified or superseded through publication of a notification in the **Federal Register**.

Comments must be received at the following address no later than 4:30 p.m., A.l.t., January 16, 2015.

ADDRESSES: You may submit comments on this document, identified by FDMS Docket Number NOAA–NMFS–2013–0152 by any of the following methods:

• *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to *www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2013-0152,* click the ''Comment Now!'' icon, complete the required fields, and enter or attach your comments.

• *Mail:* Submit written comments to Glenn Merrill, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region NMFS, Attn: Ellen Sebastian. Mail comments to P.O. Box 21668, Juneau, AK 99802–1668.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (*e.g.,* name, address), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word, Excel, or Adobe PDF file formats only.

FOR FURTHER INFORMATION CONTACT: Mary Furuness, 907–586–7228.

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

The final 2014 and 2015 harvest specifications for groundfish in the BSAI (79 FR 12108, March 4, 2014) set the 2015 BSAI pollock TAC at 1,277,075 metric tons (mt), the 2015 BSAI Atka mackerel TAC at 32,491 mt, the 2015 Bering Sea Pacific cod TAC at 251,712 mt, and the Aleutian Islands Pacific cod TAC at 6,487 mt. In December 2014, the North Pacific Fishery Management Council (Council) recommended a 2015 BSAI pollock TAC of 1,310,000 mt, which is more than the 1,277,075 mt TAC established by the final 2014 and 2015 harvest specifications for groundfish in the BSAI. The Council also recommended a 2015 BSAI Atka mackerel TAC of 54,500 mt, which is more than the 32,491 mt TAC established by the final 2014 and 2015 harvest specifications for groundfish in the BSAI. Furthermore, the Council recommended a 2015 Bering Sea Pacific cod TAC of 240,000 mt, and an Aleutian Islands Pacific cod TAC of 9,422 mt, which is less than the Bering Sea Pacific cod TAC of 251,712 mt, and more than the Aleutian Islands Pacific cod TAC of 6,487 mt established by the final 2014 and 2015 harvest specifications for groundfish in the BSAI. The Council's recommended 2015 TACs, and the area and seasonal apportionments, are based on the Stock Assessment and Fishery Evaluation report (SAFE), dated November 2014, which NMFS has determined is the best available scientific information for these fisheries.

Steller sea lions occur in the same location as the pollock, Atka mackerel, and Pacific cod fisheries and are listed as endangered under the Endangered Species Act (ESA). Pollock, Atka mackerel, and Pacific cod are a principal prey species for Steller sea lions in the BSAI. The seasonal apportionment of pollock, Atka mackerel, and Pacific cod harvest is necessary to ensure the groundfish fisheries are not likely to cause jeopardy of extinction or adverse modification of critical habitat for Steller sea lions. NMFS published regulations and the revised harvest limit amounts for Atka mackerel, Pacific cod, and pollock fisheries to implement Steller sea lion protection measures to insure that groundfish fisheries of the BSAI are not likely to jeopardize the continued existence of the western distinct population segment of Steller sea lions or destroy or adversely modify their designated critical habitat (79 FR 70286, November 25, 2014). The regulations at § 679.20(a)(5) specify how the Bering Sea pollock TAC will be apportioned. The regulations at § 679.20(a)(7) specify how the BSAI Pacific cod TAC will be apportioned. The regulations at § 679.20(a)(8) specify how the BSAI Atka mackerel TAC will be apportioned.

In accordance with § 679.25(a)(1)(iii), (a)(2)(i)(B), and (a)(2)(iv), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that, based on the November 2014 SAFE report for this fishery, the current BSAI pollock, Atka mackerel, and Pacific cod TACs are incorrectly specified. Pursuant to § 679.25(a)(1)(iii), the Regional Administrator is adjusting the 2015 BSAI pollock TAC to 1,310,000 mt, the 2015 BSAI Atka mackerel TAC to 54,500, the 2015 Bering Sea Pacific cod TAC to 240,000 mt, and the Aleutian Islands Pacific cod TAC to 9,422 mt. Therefore, Table 1 of the final 2014 and 2015 harvest specifications for groundfish in the BSAI (79 FR 12108, March 4, 2014) is revised consistent with this adjustment.

Pursuant to § 679.20(a)(5)(i), Table 3 of the final 2014 and 2015 harvest specifications for groundfish in the BSAI (79 FR 12108, March 4, 2014) is revised for the 2015 BSAI allocations of pollock TAC to the directed pollock fisheries and to the Community Development Quota (CDQ) directed fishing allowances consistent with this adjustment. The Steller sea lion protection measure final rule (79 FR 70286, November 25, 2014), sets harvest limits for pollock in the A season (January 20 to June 10) in Areas 543, 542, and 541, see § 679.20(a)(5)(iii)(B)(*6*). In Area 541, the 2015 A season pollock harvest limit is no more than 30 percent, or 8,898 mt, of the Aleutian Islands ABC of 29,659 mt. In Area 542, the 2015 A season pollock harvest limit is no more than 15 percent, or 4,449 mt, of the Aleutian Islands ABC of 29,659 mt. In Area 543, the 2015 A season pollock harvest limit is no more than 5 percent, or 1,483 mt, of the Aleutian Islands pollock ABC of 29,659 mt.

TABLE 3—FINAL 2015 ALLOCATIONS OF POLLOCK TACS TO THE DIRECTED POLLOCK FISHERIES AND TO THE CDQ DIRECTED FISHING ALLOWANCES (DFA) [1]

[Amounts are in metric tons]

Area and sector	2015 Allocations	2015 A season [1]		2015 B season [1]
		A season DFA	SCA harvest limit [2]	B season DFA
Bering Sea subarea TAC [1]	1,310,000	n/a	n/a	n/a
CDQ DFA	131,000	52,400	36,680	78,600
ICA [1]	47,160	n/a	n/a	n/a
AFA Inshore	565,920	226,368	158,458	339,552
AFA Catcher/Processors [3]	452,736	181,094	126,766	271,642
Catch by C/Ps	414,253	165,701	n/a	248,552
Catch by CVs [3]	38,483	15,393	n/a	23,090
Unlisted C/P Limit [4]	2,264	905	n/a	1,358
AFA Motherships	113,184	45,274	31,692	67,910
Excessive Harvesting Limit [5]	198,072	n/a	n/a	n/a
Excessive Processing Limit [6]	339,552	n/a	n/a	n/a
Total Bering Sea DFA	1,131,840	452,736	316,915	679,104
Aleutian Islands subarea ABC	29,659	n/a	n/a	n/a
Aleutian Islands subarea TAC [1]	19,000	n/a	n/a	n/a
CDQ DFA	1,900	760	n/a	1,140
ICA	2,400	1,200	n/a	1,200
Aleut Corporation	15,100	12,259	n/a	2,841
Area harvest limit:				
541	1,483	n/a	n/a	n/a
542	4,449	n/a	n/a	n/a
543	8,898	n/a	n/a	n/a
Bogoslof District ICA [7]	100	n/a	n/a	n/a

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

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

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

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

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

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

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

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

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

Pursuant to § 679.20(a)(8), Table 4 of the final 2014 and 2015 harvest specifications for groundfish in the BSAI (79 FR 12108, March 4, 2014) is revised for the 2015 seasonal and spatial allowances, gear shares, CDQ reserve, incidental catch allowance, and Amendment 80 allocation of the BSAI Atka mackerel TAC consistent with this adjustment.

TABLE 4—FINAL 2015 SEASONAL AND SPATIAL ALLOWANCES, GEAR SHARES, CDQ RESERVE, INCIDENTAL CATCH ALLOWANCE, AND AMENDMENT 80 ALLOCATIONS OF THE BSAI ATKA MACKEREL TAC

[Amounts are in metric tons]

Sector [1]	Season [2 3 4]	2015 allocation by area		
		Eastern Aleutian District/Bering Sea	Central Aleutian District [5]	Western Aleutian District
TAC	n/a	27,000	17,000	10,500
CDQ reserve	Total	2,889	1,819	1,124
	A	1,445	910	562
	Critical Habitat	n/a	546	337
	B	1,445	910	562
	Critical Habitat	n/a	546	337
ICA	Total	1,000	75	40
Jig [6]	Total	116	0	0

TABLE 4—FINAL 2015 SEASONAL AND SPATIAL ALLOWANCES, GEAR SHARES, CDQ RESERVE, INCIDENTAL CATCH ALLOWANCE, AND AMENDMENT 80 ALLOCATIONS OF THE BSAI ATKA MACKEREL TAC—Continued

[Amounts are in metric tons]

Sector [1]	Season [2 3 4]	2015 allocation by area		
		Eastern Aleutian District/Bering Sea	Central Aleutian District [5]	Western Aleutian District
BSAI trawl limited access	Total	2,300	1,511	0
	A	1,150	755	0
	Critical Habitat	n/a	453	0
	B	1,150	755	0
	Critical Habitat	n/a	453	0
Amendment 80 sectors	Total	20,696	13,595	9,337
	A	10,348	6,798	4,668
	B	10,348	6,798	4,668
Alaska Groundfish Cooperative	Total [6]	11,616	8,116	5,742
	A	5,808	4,058	2,871
	Critical Habitat	n/a	2,435	1,723
	B	5,808	4,058	2,871
	Critical Habitat	n/a	2,435	1,723
Alaska Seafood Cooperative	Total [6]	9,080	5,479	3,594
	A	4,540	2,740	1,797
	Critical Habitat	n/a	1,644	1,078
	B	4,540	2,740	1,797
	Critical Habitat	n/a	1,644	1,078

[1] Section 679.20(a)(8)(ii) allocates the Atka mackerel TACs, after subtracting the CDQ reserves, jig gear allocation, and ICAs to the Amendment 80 and BSAI trawl limited access sectors. The allocation of the ITAC for Atka mackerel to the Amendment 80 and BSAI trawl limited access sectors is established in Table 33 to part 679 and § 679.91. The CDQ reserve is 10.7 percent of the TAC for use by CDQ participants (see §§ 679.20(b)(1)(ii)(C) and 679.31).

[2] Regulations at §§ 679.20(a)(8)(ii)(A) and 679.22(a) establish temporal and spatial limitations for the Atka mackerel fishery.

[3] The seasonal allowances of Atka mackerel are 50 percent in the A season and 50 percent in the B season.

[4] Section 679.23(e)(3) authorizes directed fishing for Atka mackerel with trawl gear during the A season from January 20 to June 10 and the B season from June 10 to December 31.

[5] Section 679.20(a)(8)(ii)(C)(*1*)(*i*) limits no more than 60 percent of the annual TACs in Areas and 542 and 543 to be caught inside of critical habitat; and § 679.20(a)(8)(ii)(C)(*1*)(*ii*) equally divided between the A and B seasons as defined at § 679.23(e)(3) and (2) requires the TAC in area 543 shall be no more than 65% of ABC.

[6] Section 679.20(a)(8)(i) requires that up to 2 percent of the Eastern Aleutian District and the Bering Sea subarea TAC be allocated to jig gear after subtracting the CDQ reserve and ICA. The amount of this allocation is 0.5 percent. The jig gear allocation is not apportioned by season.

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

Pursuant to § 679.20(a)(7), Table 6 of the final 2014 and 2015 harvest specifications for groundfish in the BSAI (79 FR 12108, March 4, 2014) is revised for the 2015 gear shares and seasonal allowances of the BSAI Pacific cod TAC consistent with this adjustment.

TABLE 6—FINAL 2015 GEAR SHARES AND SEASONAL ALLOWANCES OF THE BSAI PACIFIC COD TAC

[Amounts are in metric tons]

Gear sector	Percent	2015 share of gear sector total	2015 share of sector total	2015 seasonal apportionment	
				Seasons	Amount
BS TAC	n/a	240,000	n/a	n/a	n/a
BS CDQ	n/a	25,680	n/a	see § 679.20(a)(7)(i)(B)	n/a
BS non-CDQ TAC	n/a	214,320	n/a	n/a	n/a
AI TAC	n/a	9,422	n/a	n/a	n/a
AI CDQ	n/a	1,008	n/a	see § 679.20(a)(7)(i)(B)	n/a
AI non-CDQ TAC	n/a	8,414	n/a	n/a	n/a
Western Aleutian Island Limit	n/a	2,478	n/a	n/a	n/a
Total BSAI non-CDQ TAC [1]	100	222,734	n/a	n/a	n/a
Total hook-and-line/pot gear	60.8	135,422	n/a	n/a	n/a
Hook-and-line/pot ICA [2]	n/a	500	n/a	see § 679.20(a)(7)(ii)(B)	n/a
Hook-and-line/pot sub-total	n/a	134,922	n/a	n/a	n/a
Hook-and-line catcher/processor	48.7	n/a	108,071	Jan 1–Jun 10	55,116
				Jun 10–Dec 31	52,955
Hook-and-line catcher vessel ≥60 ft LOA	0.2	n/a	444	Jan 1–Jun 10	226
				Jun 10–Dec 31	217
Pot catcher/processor	1.5	n/a	3,329	Jan 1–Jun 10	1,698
				Sept 1–Dec 31	1,631
Pot catcher vessel ≥60 ft LOA	8.4	n/a	18,641	Jan 1–Jun 10	9,507
				Sept 1–Dec 31	9,134
Catcher vessel <60 ft LOA using hook-and-line or pot gear.	2	n/a	4,438	n/a	n/a
Trawl catcher vessel	22.1	49,224	n/a	Jan 20–Apr 1	36,426

TABLE 6—FINAL 2015 GEAR SHARES AND SEASONAL ALLOWANCES OF THE BSAI PACIFIC COD TAC—Continued

[Amounts are in metric tons]

Gear sector	Percent	2015 share of gear sector total	2015 share of sector total	2015 seasonal apportionment	
				Seasons	Amount
				Apr 1–Jun 10	5,415
				Jun 10–Nov 1	7,384
AFA trawl catcher/processor	2.3	5,123	n/a	Jan 20–Apr 1	3,842
				Apr 1–Jun 10	1,281
				Jun 10–Nov 1	0
Amendment 80	13.4	29,846	n/a	Jan 20–Apr 1	22,385
				Apr 1–Jun 10	7,462
				Jun 10–Nov 1	0
Alaska Groundfish Cooperative	n/a	n/a	4,711	Jan 20–Apr 1	3,533
				Apr 1–Jun 10	1,178
				Jun 10–Dec 31	0
Alaska Seafood Cooperative	n/a	n/a	25,135	Jan 20–Apr 1	18,851
				Apr 1–Jun 10	6,284
				Jun 10–Dec 31	0
Jig	1.4	3,118	n/a	Jan 1–Apr 30	1,871
				Apr 30–Aug 31	624
				Aug 31–Dec 31	624

[1] The gear shares and seasonal allowances for BSAI Pacific cod TAC are based on the sum of the BS and AI Pacific cod TACs, after the subtraction of CDQ. If the TAC for Pacific cod in either the AI or BS is reached, then directed fishing for Pacific cod in that subarea may be prohibited, even if a BSAI allowance remains.

[2] The ICA for the hook-and-line and pot sectors will be deducted from the aggregate portion of Pacific cod TAC allocated to the hook-and-line and pot sectors. The Regional Administrator approves an ICA of 500 mt for 2015 based on anticipated incidental catch in these fisheries.

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

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would allow for harvests that exceed the appropriate allocations for pollock, Atka mackerel, and Pacific cod in the BSAI based on the best scientific information available. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of December 26, 2014, and additional time for prior public comment would result in conservation concerns for the ESA-listed Steller sea lions.

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

Under § 679.25(c)(2), interested persons are invited to submit written comments on this action to the above address until January 16, 2015.

This action is required by § 679.20 and § 679.25 and is exempt from review under Executive Order 12866.

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

Dated: December 30, 2014.

Alan D. Risenhoover,

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

[FR Doc. 2014–30819 Filed 12–30–14; 4:15 pm]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 130925836–4174–02]

RIN 0648–XD688

Fisheries of the Exclusive Economic Zone Off Alaska; Inseason Adjustment to the 2015 Gulf of Alaska Pollock and Pacific Cod Total Allowable Catch Amounts

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

ACTION: Temporary rule; inseason adjustment; request for comments.

SUMMARY: NMFS is adjusting the 2015 total allowable catch (TAC) amounts for the Gulf of Alaska (GOA) pollock and Pacific cod fisheries. This action is necessary because NMFS has determined these TACs are incorrectly specified, and will ensure the GOA pollock and Pacific cod TACs are the appropriate amounts based on the best available scientific information for pollock and Pacific cod in the GOA. This action is consistent with the goals and objectives of the Fishery Management Plan for Groundfish of the Gulf of Alaska.

DATES: Effective 1200 hours, Alaska local time (A.l.t.), January 1, 2015, until the effective date of the final 2015 and 2016 harvest specifications for GOA groundfish, which will be published in the **Federal Register**.

Comments must be received at the following address no later than 4:30 p.m., A.l.t., January 16, 2015.

ADDRESSES: You may submit comments on this document, identified by FDMS Docket Number NOAA–NMFS–2013–0147 by any of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to *http://www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2013-0147,* click the ''Comment Now!'' icon, complete the required fields, and enter or attach your comments.
- *Mail:* Address written comments to Glenn Merrill, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region NMFS, Attn: Ellen Sebastian. Mail comments to P.O. Box 21668, Juneau, AK 99802–1668.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (*e.g.,* name, address), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word, Excel, or Adobe PDF file formats only.

FOR FURTHER INFORMATION CONTACT: Obren Davis, 907–586–7228.

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

The final 2014 and 2015 harvest specifications for groundfish in the GOA (79 FR 12890, March 6, 2014) set the 2015 pollock TAC at 193,809 metric tons (mt) and the 2015 Pacific cod TAC at 61,519 mt in the GOA. In December 2014, the North Pacific Fishery Management Council (Council) recommended a 2015 pollock TAC of 199,151 mt for the GOA, which is more than the 193,809 mt established by the final 2014 and 2015 harvest specifications for groundfish in the GOA. The Council also recommended a 2015 Pacific cod TAC of 75,202 mt for the GOA, which is more than the 61,519 mt established by the final 2014 and 2015 harvest specifications for groundfish in the GOA. The Council's recommended 2015 TACs, and the area and seasonal apportionments, are based on the Stock Assessment and Fishery Evaluation report (SAFE), dated November 2014, which NMFS has determined is the best available scientific information for these fisheries.

Steller sea lions occur in the same location as the pollock and Pacific cod fisheries and are listed as endangered under the Endangered Species Act (ESA). Pollock and Pacific cod are a principal prey species for Steller sea lions in the GOA. The seasonal apportionment of pollock and Pacific cod harvest is necessary to ensure the groundfish fisheries are not likely to cause jeopardy of extinction or adverse modification of critical habitat for Steller sea lions. The regulations at § 679.20(a)(5)(iv) specify how the pollock TAC will be apportioned. The regulations at § 679.20(a)(6)(ii) and § 679.20(a)(12)(i) specify how the Pacific cod TAC will be apportioned.

In accordance with § 679.25(a)(1)(iii), (a)(2)(i)(B), and (a)(2)(iv) the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that, based on the November 2014 SAFE report for this fishery, the current GOA pollock and Pacific cod TACs are incorrectly specified. Consequently, pursuant to § 679.25(a)(1)(iii), the Regional Administrator is adjusting the 2015 GOA pollock TAC to 199,151 mt and the 2015 GOA Pacific cod TAC to 75,202 mt. Therefore, Table 2 of the final 2014 and 2015 harvest specifications for groundfish in the GOA (79 FR 12890, March 6, 2014) is revised consistent with this adjustment.

Pursuant to § 679.20(a)(5)(iv), Table 4 of the final 2014 and 2015 harvest specifications for groundfish in the GOA (79 FR 12890, March 6, 2014) is revised for the 2015 TACs of pollock in the Central and Western Regulatory Area of the GOA.

TABLE 4—FINAL 2015 DISTRIBUTION OF POLLOCK IN THE CENTRAL AND WESTERN REGULATORY AREAS OF THE GOA; SEASONAL BIOMASS DISTRIBUTION, AREA APPORTIONMENTS; AND SEASONAL ALLOWANCES OF ANNUAL TAC

[Values are rounded to the nearest metric ton and percentages are rounded to the nearest 0.01]

Season [1]	Shumagin (Area 610)		Chirikof (Area 620)		Kodiak (Area 630)		Total [2]
A (Jan 20–Mar 10)	3,632	(7.99%)	30,503	(67.11%)	11,316	(24.90%)	45,452
B (Mar 10–May 31)	3,632	(7.99%)	37,820	(83.21%)	4,000	(8.80%)	45,452
C (Aug 25–Oct 1)	12,185	(26.81%)	14,628	(32.18%)	18,639	(41.01%)	45,452
D (Oct 1–Nov 1)	12,185	(26.81%)	14,628	(32.18%)	18,639	(41.01%)	45,452
Annual Total	31,364		97,579		52,594		181,806

[1] As established by § 679.23(d)(2)(i) through (iv), the A, B, C, and D season allowances are available from January 20 to March 10, March 10 to May 31, August 25 to October 1, and October 1 to November 1, respectively. The amounts of pollock for processing by the inshore and offshore components are not shown in this table.

[2] The WYK and SEO District pollock TACs are not allocated by season and are not included in the total pollock TACs shown in this table.

Note: Seasonal allowances may not total precisely to annual TAC total (due to rounding).

Pursuant to § 679.20(a)(6)(ii) and § 679.20(a)(12)(i), Table 6 of the final 2014 and 2015 harvest specifications for groundfish in the GOA (79 FR 12890, March 6, 2014) is revised for the 2015 seasonal apportionments and allocation of Pacific cod TAC in the GOA consistent with this adjustment.

TABLE 6—FINAL 2015 SEASONAL APPORTIONMENTS AND ALLOCATION OF PACIFIC COD TOTAL ALLOWABLE CATCH AMOUNTS IN THE GOA; ALLOCATIONS FOR THE WESTERN GOA AND CENTRAL GOA SECTORS AND THE EASTERN GOA INSHORE AND OFFSHORE PROCESSING COMPONENTS

[Values are rounded to the nearest metric ton and percentages to the nearest 0.01. Seasonal allowances may not total precisely to annual allocation amount.]

Regulatory area and sector	Annual allocation (mt)	A Season		B Season	
		Sector % of annual non-jig TAC	Seasonal allowances (mt)	Sector % of annual non-jig TAC	Seasonal allowances (mt)
Western GOA:					
Jig (2.5% of TAC)	677	N/A	406	N/A	271
Hook-and-line CV	370	0.70	185	0.70	185
Hook-and-line C/P	5,230	10.90	2,879	8.90	2,351
Trawl CV	10,143	27.70	7,317	10.70	2,826
Trawl C/P	634	0.90	238	1.50	396
All Pot CV and Pot C/P	10,037	19.80	5,230	18.20	4,807
Total	27,091	60.00	16,255	40.00	10,837
Central GOA:					
Jig (2.0% of TAC)	920	N/A	552	N/A	368
Hook-and-line <50 CV	6,581	9.32	4,199	5.29	2,383
Hook-and-line ≥50 CV	3,023	5.61	2,528	1.10	495
Hook-and-line C/P	2,301	4.11	1,851	1.00	450
Trawl CV	18,742	21.14	9,526	20.45	9,216
Trawl C/P	1,892	2.00	903	2.19	989
All Pot CV and Pot C/P	12,532	17.83	8,036	9.97	4,496
Total	45,990	60.00	27,594	40.00	18,396
Eastern GOA		Inshore (90% of Annual TAC)		Offshore (10% of Annual TAC)	
	2,121	1,909		212	

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

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would allow for harvests that exceed the appropriate allocations for Pacific cod based on the best scientific information available. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of December 24, 2014, and additional time for prior public comment would result in conservation concerns for the ESA-listed Steller sea lions.

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

Under § 679.25(c)(2), interested persons are invited to submit written comments on this action to the above address until January 16, 2015.

This action is required by § 679.20 and § 679.25 and is exempt from review under Executive Order 12866.

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

Dated: December 29, 2014.

James P. Burgess,

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

[FR Doc. 2014–30835 Filed 12–30–14; 4:15 pm]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 140519437–4999–02]

RIN 0648–BE24

Fisheries of the Exclusive Economic Zone Off Alaska; Establishing Transit Areas Through Walrus Protection Areas at Round Island and Cape Peirce, Northern Bristol Bay, Alaska; Amendment 107

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

ACTION: Final rule.

SUMMARY: NMFS issues this final rule to implement Amendment 107 to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (BSAI FMP), as prepared and submitted by the North Pacific Fishery Management Council (Council), and approved by the Secretary of Commerce. This final rule allows vessels designated on Federal Fisheries Permits (FFPs) to

transit through Walrus Protection Areas in the Exclusive Economic Zone (EEZ) near Round Island and Cape Peirce from April 1 through August 15, annually. These actions are necessary to restore the access of federally permitted vessels to transit through Walrus Protection Areas that was unintentionally limited by regulations implementing Amendment 83 to the Fishery Management Plan for Groundfish of the Gulf of Alaska (GOA FMP) and to maintain suitable protection for walruses on Round Island and Cape Peirce. This final rule maintains an existing prohibition on deploying fishing gear in Walrus Protection Areas by vessels designated on an FFP. This final rule is intended to promote the goals and objectives of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), the BSAI FMP, and other applicable law.

DATES: Effective February 4, 2015.

ADDRESSES: Electronic copies of the BSAI FMP, Amendment 107 to the BSAI FMP, and the Environmental Assessment/Regulatory Impact Review/Initial Regulatory Flexibility Analysis (Analysis) prepared for this action are available from *http://www.regulations.gov* or from the NMFS Alaska Region Web site at *http://alaskafisheries.noaa.gov/sustainablefisheries/.*

FOR FURTHER INFORMATION CONTACT: Anne Marie Eich, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fisheries in the EEZ off Alaska under the GOA FMP and the BSAI FMP. The Council prepared these FMPs under the authority of the Magnuson-Stevens Act, 16 U.S.C. 1801, *et seq.* Regulations governing U.S. fisheries and implementing the FMPs appear at 50 CFR parts 600 and 679.

This final rule implements management measures contained in Amendment 107 to the BSAI FMP. This final rule allows vessels designated on FFPs to transit through Walrus Protection Areas in the EEZ near Round Island and Cape Peirce from April 1 through August 15, annually.

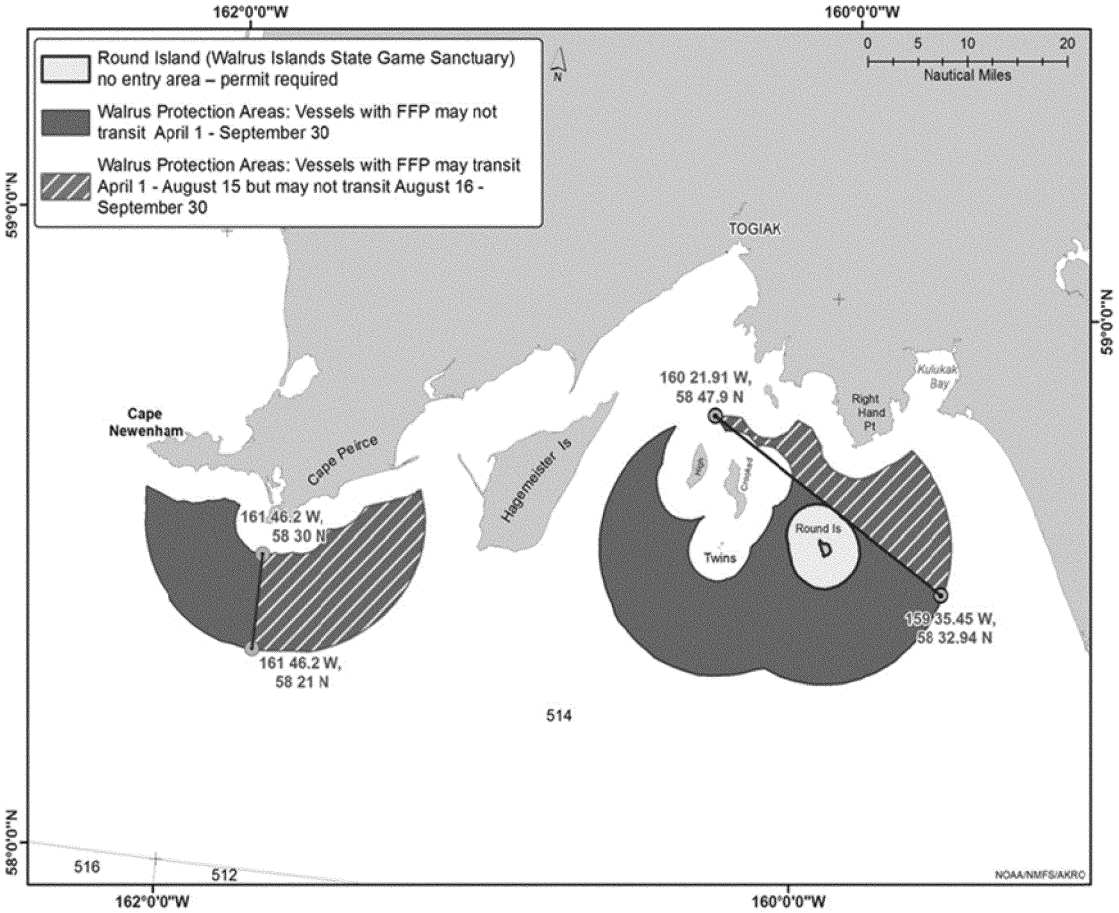
NMFS published the Notice of Availability (NOA) of Amendment 107 to the BSAI FMP in the **Federal Register** on September 24, 2014, with a 60-day comment period that ended November 24, 2014 (79 FR 57041). The Secretary of Commerce approved Amendment 107 to the BSAI FMP on December 19, 2004. NMFS published a proposed rule to implement management measures contained in Amendment 107 to the BSAI FMP on October 3, 2014 (79 FR 59733). The 30-day comment period on the proposed rule ended November 3, 2014. NMFS received four comment letters on Amendment 107 to the BSAI FMP during the NOA and proposed rule comment periods. Two comment letters were duplicates. The comment letters contained two unique comments. A summary of these comments and NMFS' responses are provided in the ''Comments and Responses'' section of this preamble. NMFS did not make any changes in this final rule to the regulatory text contained in the proposed rule.

The proposed rule (79 FR 59733, October 3, 2014) preamble provides additional information on the development of the action, the impacts and effects of the action, and the Council's and NMFS' rationale for the action. The proposed rule is available from the NMFS Alaska Region Web site (see **ADDRESSES**).

Management Measures Contained in This Final Rule

This final rule allows vessels designated on FFPs to enter and transit through specific areas of the Walrus Protection Areas near Round Island and Cape Peirce. This final rule applies to Federal waters in northern Bristol Bay, specifically in statistical area 514 of the BSAI, as shown in Figure 1 to 50 CFR part 679. This action does not apply in State of Alaska (State) waters. The State restricts vessel transit in State waters around Round Island but not in State waters elsewhere in the area. All vessels, including vessels designated on an FFP, can transit through State waters around Cape Peirce and The Twins. This action only affects vessels designated on an FFP. Vessels that are not designated on an FFP are not regulated in the Walrus Protection Areas and can enter and transit through Walrus Protection Areas. The transit areas implemented by this final rule are shown in Figure 1 below.

Figure 1. Seasonal Transit Areas near Round Island and Cape Peirce



Transit Area Near Round Island

This final rule adds regulations at § 679.22(a)(4)(ii) to establish a transit area through the Walrus Protection Area near Round Island. This final rule establishes a transit area in the EEZ near Round Island from April 1 through August 15, annually, north of a line from 58°47.90′ N, 160°21.91′ W to 58°32.94′ N, 159°35.45′ W. (See Figure 1 of this preamble.)

This transit area is at least 3 nm from Round Island at its closest point and is more than 9 nm from the haulouts on The Twins at its closest point. As noted in Section 3.2.7.2.1 of the Analysis, there has been no recorded visible disturbance to walruses from vessel traffic more than 3 nm from Round Island, but disturbance from vessel traffic has been documented within 3 nm from Round Island. This final rule does not allow vessels designated on an FFP to transit within 3 nm of Round Island or The Twins.

This transit area is established to maintain suitable protection for walruses on Round Island and to allow vessels designated on an FFP access to a transit route north of Round Island. NMFS expects this transit area to reduce the potential for vessels to transit near Hagemeister Island, a known walrus haulout, because vessels will be allowed to transit north of Round Island and to avoid the route near Hagemeister Island. This final rule also allows vessels to transit through Federal waters farther from shore and thereby reduces transit through shallower State waters that are more difficult to navigate.

The transit area near Round Island opens April 1 to relieve the existing regulations that prohibit entry and transit to vessels designated on an FFP in Walrus Protection Areas on April 1, the start of peak walrus use in the area. This transit area closes on August 16 because of the following: (1) The herring and most salmon fisheries are completed by August 15, and tender vessels that are designated on FFPs (*i.e.,* vessels used to carry unprocessed fish to processing facilities) are no longer active and do not require transit through Walrus Protection Areas after that date; (2) vessels transiting to deliver groundfish in northern Bristol Bay typically have completed their deliveries by August 15 and do not require transit through Walrus Protection Areas after that date; and (3) limiting vessel transit by August 15 will reduce vessel traffic near walrus haulouts that could interfere with vessels used for the subsistence harvest of walruses on Round Island that begins in September of each year. Vessels designated on FFPs are still prohibited from entering and transiting through the Walrus Protection Areas near Round Island from August 16 through September 30. NMFS expects that this prohibition will not adversely affect vessels designated on FFPs because tendering operations and groundfish deliveries in northern Bristol Bay do not occur between August 16 and September 30.

Transit Area Near Cape Peirce

This rule adds regulations at § 679.22(a)(4)(ii) to establish a transit areas through the Walrus Protection Areas at Cape Peirce. This rule establishes a transit area in the EEZ near Cape Peirce from April 1 through August 15, annually, east of a line from

58°30.00′ N, 161°46.20′ W to 58°21.00′ N, 161°46.20′ W. (See Figure 1 of this preamble.) This transit area is at least 3 nm from Cape Peirce at its closest point.

The transit area through the Walrus Protection Areas near Cape Peirce will provide an opportunity for vessels with FFPs to travel farther from shore while tendering herring or salmon and avoid transit through State waters near walrus haulouts at Cape Peirce. NMFS expects, based on the analyses, that the transit area will reduce the likelihood of disturbance to walruses at the Cape Peirce Walrus Protection Areas.

The transit area will be open from April 1 through August 15, annually, consistent with the opening and closing dates established for the Round Island transit area. As noted in the previous section of this preamble, these dates facilitate vessel transits for tendering and groundfish deliveries. Vessels designated on FFPs are still prohibited from entering and transiting through the Walrus Protection Areas near Cape Peirce from August 16 through September 30. NMFS expects this prohibition will not adversely affect vessels designated on FFPs because tendering operations and groundfish deliveries in northern Bristol Bay do not occur between August 16 and September 30.

Prohibition on Vessels With FFPs Deploying Fishing Gear in Walrus Protection Areas

This final rule adds regulations at § 679.22(a)(4)(i) (incorrectly identified in the preamble of the proposed rule as § 679.22(a)(4)(ii)) to prohibit vessels designated on an FFP from deploying fishing gear in Walrus Protection Areas from April 1 through September 30, annually. As noted throughout this preamble, this rule removes a prohibition that limits vessels from entering and transiting through Walrus Protection Areas. This final rule does not allow vessels designated on FFPs to fish in Walrus Protection Areas from April 1 through September 30, annually. Section 3.1 of the Analysis explains that this final rule will not affect the timing, duration, effort, or harvest levels in the fisheries in northern Bristol Bay because this final rule does not open Walrus Protection Areas to fishing by vessels designated on an FFP. Because vessels designated on FFPs are already prohibited from deploying fishing gear in Walrus Protection Areas, this prohibition maintains the status quo prohibition on deploying fishing gear in Walrus Protection Areas. Therefore, this final rule does not affect any existing fishing operations.

Changes From Proposed to Final Rule

No changes were made from proposed to final rule.

Comments and Responses

NMFS received four comment letters during the NOA and proposed rule comment periods. Two comment letters were duplicates. The comment letters contained two unique comments. A summary of the comments and NMFS' response follows.

Comment 1: Commercial fishing vessels, tourist boats, and transit boats should not be allowed to transit through the walrus protected area. This area should be nominated for a marine protected area.

Response: As noted in the preamble to the proposed rule and this preamble, the purpose of this action is to allow vessels designated on FFPs to enter and transit through specific areas of the Walrus Protection Areas near Round Island and Cape Peirce. Therefore, not allowing transit through these areas is inconsistent with the purpose of this action. Also, the commenter's recommendation to nominate these areas as marine protected areas is outside of the scope of this action.

NMFS notes that the Council has recommended and NMFS has implemented a series of closure areas, known as Walrus Protection Areas, around important walrus haulout sites in Bristol Bay to reduce potential disturbances to walruses from fishing activities.

As noted in Section 3.2.7 of the Analysis and in the preamble of the proposed rule (79 FR 59733, October 3, 2014) for this action, all of the alternative management approaches considered, and this action specifically, were determined to be consistent with the best practices in the guidelines established by the U.S. Fish and Wildlife Service (USFWS), the agency responsible for the protection of walruses.

Comment 2: Two commenters provided support for Amendment 107 and its associated implementing proposed rule for the following reasons: (1) Fuel use and operating costs would decrease significantly for vessels designated on FFPs with the implementation of this rule by reducing transit time, (2) vessels designated on FFPs would be less exposed to weather by being allowed to transit through the Walrus Protection Areas, (3) walrus traveling from Round Island to feeding grounds in central Bristol Bay are less likely to encounter vessel traffic if vessels designated on FFPs can use alternate transit routes, and (4) vessel traffic will decrease near the walrus haulout on the south end of Hagemeister Island because vessels designated on FFPs would be less likely to transit through this area.

Response: NMFS acknowledges this comment and agrees with the commenters' support of this action. Additional detail on the effects of this action on vessel fuel use, exposure to weather, and vessel traffic are provided in preamble to the proposed rule and in Section 3.2 of the Analysis and are not described further here.

Classification

The Administrator, Alaska Region, NMFS, determined that this final rule is necessary for the conservation and management of the BSAI groundfish fishery and that it is consistent with the BSAI FMP, including Amendment 107, the Magnuson-Stevens Act, and other applicable laws.

The final rule has been determined to be not significant for purposes of Executive Order (E.O.) 12866.

Small Entity Compliance Guide

Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 states that, for each rule or group of related rules for which an agency is required to prepare a final regulatory flexibility analysis, the agency shall publish one or more guides to assist small entities in complying with the rule, and shall designate such publications as ''small entity compliance guides.'' The agency shall explain the actions a small entity is required to take to comply with a rule or group of rules. The preamble to the proposed rule and the preamble to this final rule serve as the small entity compliance guide. This rule does not require any additional compliance from small entities that is not described in the preamble to the proposed rule. Copies of the proposed rule and this final rule are available from NMFS at the following Web site: *http://alaskafisheries.noaa.gov.*

Final Regulatory Flexibility Analysis (FRFA)

Section 604 of the Regulatory Flexibility Act requires an agency to prepare a FRFA after being required by that section or any other law to publish a general notice of proposed rulemaking and when an agency promulgates a final rule under section 553 of Title 5 of the U.S. Code.

Section 604 describes the required contents of a FRFA: (1) A statement of the need for, and objectives of, the rule; (2) a statement of the significant issues raised by the public comments in

response to the initial regulatory flexibility analysis, a statement of the assessment of the agency of such issues, and a statement of any changes made in the proposed rule as a result of such comments; (3) the response of the agency to any comments filed by the Chief Counsel for Advocacy of the Small Business Administration in response to the proposed rule, and a detailed statement of any change made to the proposed rule in the final rule as a result of the comments; (4) a description of and an estimate of the number of small entities to which the rule will apply or an explanation of why no such estimate is available; (5) a description of the projected reporting, recordkeeping and other compliance requirements of the rule, including an estimate of the classes of small entities which will be subject to the requirement and the type of professional skills necessary for preparation of the report or record; and (6) a description of the steps the agency has taken to minimize the significant economic impact on small entities consistent with the stated objectives of applicable statutes, including a statement of the factual, policy, and legal reasons for selecting the alternative adopted in the final rule and why each one of the other significant alternatives to the rule considered by the agency which affect the impact on small entities was rejected.

Need for and Objectives of the Rule

A statement of the need for, and objectives of, the rule is contained in the preamble to this final rule and is not repeated here. This FRFA incorporates the Initial Regulatory Flexibility Analysis (IRFA) and the summary of the IRFA in the proposed rule (79 FR 59733, October 3, 2014).

Public and Chief Counsel for Advocacy Comments on the Proposed Rule

NMFS published the proposed rule on October 3, 2014 (79 FR 59733). The 30-day comment period on the proposed rule closed on November 3, 2014. An IRFA was prepared for the ''Classification'' section of the preamble to the proposed rule.

NMFS received four letters of public comment on the proposed rule, containing a total of two comments. No comments were received on the IRFA, or on the small entity impacts of this action. The Chief Counsel for Advocacy of the Small Business Administration (SBA) did not file any comments on the proposed rule.

Number and Description of Small Entities Regulated by the Final Rule

The determination of the number and description of small entities regulated by this action is based on small business size standards established by the SBA. On June 12, 2014, the SBA issued an interim final rule revising the small business size standards for several industries effective July 14, 2014 (79 FR 33647, June 12, 2014). The rule increased the size standard for Finfish Fishing from $19.0 million to $20.5 million, Shellfish Fishing from $5.0 million to $5.5 million, and Other Marine Fishing from $7.0 million to $7.5 million.

The entities that will be directly regulated by this action are those businesses that tender herring or salmon from fisheries to delivery locations in northern Bristol Bay, and those businesses that deliver processed groundfish from the Bering Sea to locations in northern Bristol Bay. Vessels tendering herring or salmon are transporting harvested fish. Because tender vessel operators enter into private contracts with herring and salmon fishing vessel operators to transport their catch, revenue information from tenders is not available. Based on information from 2012, the most recent year of complete data, a maximum of 64 vessels were estimated to have operated as tenders in the herring and salmon fisheries in northern Bristol Bay. These vessels could have been designated on an FFP and could be affected by this action. Because no revenue information is available on these vessels, each of these vessels was assumed to be a small entity.

Based on information from 2012, the most recent year of complete data, a maximum of 6 vessels were estimated to have delivered processed groundfish to locations in northern Bristol Bay. These vessels could have been designated on an FFP and could be affected by this action. All of these vessels were affiliated through common management under cooperative fishing arrangements. These affiliated vessels had ex-vessel annual revenues in 2012 that exceeded the annual revenue limit of $20.5 million used by the SBA to define a small entity harvesting or processing groundfish (79 FR 33647, June 12, 2014). Therefore, these vessels are considered to be large entities.

Recordkeeping, Reporting, and Compliance Requirements

This action will not change existing reporting, recordkeeping, or other compliance requirements.

Description of Significant Alternatives to the Final Action That Minimize Adverse Impacts on Small Entities

A FRFA must describe the steps the agency has taken to minimize the significant economic impact on small entities consistent with the stated objectives of applicable statutes, including a statement of the factual, policy, and legal reasons for selecting the alternative adopted in the final rule and why each one of the other significant alternatives to the rule considered by the agency that affect the impact on small entities was rejected. The FRFA considered three alternatives.

Alternative 1, the no action (status quo) alternative, would maintain the existing closures between 3 and 12 nm around Round Island and Cape Peirce, and would not allow vessels designated on an FFP to transit these areas. Therefore, Alternative 1 represents the most restrictive alternative considered and the alternative with the highest potential cost to regulated small entities.

Alternative 2 would establish a transit area through the existing Walrus Protection Areas near Round Island. Alternative 2 also included three options, Options 1, 2, and 3 to allow the closest point of the transit area to be within 3 nm, 4.5 nm, and 6 nm from Round Island, respectively.

Alternative 3 would establish a transit area through Walrus Protection Areas near Cape Peirce.

The alternatives analyzed but not selected are Alternative 1 (status quo, do not allow transit through the protection areas) and Alternative 2, Options 2 and 3. All of these alternatives and options are more restrictive than the Council's preferred alternatives, which are implemented by this final rule. The Council's preferred alternatives and the actions implemented by this final rule are Alternative 2, Option 1 and Alternative 3. Alternative 2, Option 1 allows vessels to transit closer to Round Island than Alternative 2, Option 2 and Alternative 2, Option 3. Therefore, Alternative 2, Option 1 is the least restrictive of the three options under Alternative 2. Alternative 3 provides a seasonal transit area around Cape Peirce. This final rule represents the alternatives that minimize the potential cost to directly regulated small entities. The boundaries farther from Round Island (Options 2 and 3) may incrementally reduce the potential for disturbance to walruses on Round Island (see Section 3.2.7 of the Analysis), but are not likely to significantly affect the distances traveled as vessels with FFPs transit the protected area. The differences in transit

time or fuel costs are not likely to be significantly different between these options. As noted in Section 3.2.7.2.1 of the Analysis, there has been no recorded visible disturbance to walruses from vessel traffic more than 3 nm from Round Island.

The Council also considered rescinding the protection areas around Round Island and Cape Peirce for all or a portion of the year, eliminating the barriers to transiting the Walrus Protection Areas. Rescission of the protection areas would reduce costs to regulated small entities more than this action. However, these alternatives were not analyzed because they do not meet the purpose and need of the action to maintain protection of walruses in these important haulout sites.

Tribal Consultation

E.O. 13175 of November 6, 2000 (25 U.S.C. 450 note), the Executive Memorandum of April 29, 1994 (25 U.S.C. 450 note), the American Indian and Alaska Native Policy of the U.S. Department of Commerce (March 30, 1995), and the Department of Commerce Tribal Consultation and Coordination policy (78 FR 33331, June 4, 2013) outline the responsibilities of NMFS for Federal policies that have tribal implications. Section 161 of Public Law 108–199 (188 Stat. 452), as amended by section 518 of Public Law 109–447 (118 Stat. 3267), extends the consultation requirements of E.O. 13175 to Alaska Native corporations. Under the E.O. and agency policies, NMFS must ensure meaningful and timely input by tribal officials and representatives of Alaska Native corporations in the development of regulatory policies that have tribal implications. NMFS provided a copy of the proposed rule to the federally recognized tribes and Alaska Native corporations in the Bristol Bay area to notify them of the opportunity to comment or request a consultation on this action.

Section 5(b)(2)(B) of E.O. 13175 requires NMFS to prepare a ''tribal summary impact statement'' for any regulation that has tribal implications, that imposes substantial direct compliance costs on Indian tribal governments, and is not required by statute. The tribal summary impact statement must contain (1) a description of the extent of the agency's prior consultation with tribal officials, (2) a summary of the nature of their concerns, (3) the agency's position supporting the need to issue the regulation, and (4) a statement of the extent to which the concerns of tribal officials have been met.

Tribal Summary Impact Statement

Pursuant to E.O. 13175, NMFS mailed letters to approximately 162 federally recognized tribes and Alaska Native corporations in the Bristol Bay area providing information about Amendment 107 and the proposed rule. The letter invited comments and requests for consultation on this action. NMFS received no requests for consultation. This final rule is needed to restore the access of federally permitted vessels to transit through Walrus Protection Areas that was limited by regulations implementing Amendment 83 to the GOA FMP and to maintain suitable protection for walruses on Round Island and Cape Peirce. During the development of this action, the Council communicated with the USFWS and the Qayassiq Walrus Commission to avoid adverse impacts to walruses from this action. As noted in Section 3.2.7 of the Analysis and discussed in the preamble of the proposed rule for this action, all of the alternative management approaches considered, and this action specifically, were determined to be consistent with the best practices in the guidelines established by USFWS, the agency responsible for the protection of walruses.

List of Subjects in 50 CFR Part 679

Alaska, Fisheries.

Dated: December 30, 2014.

Eileen Sobeck,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

For reasons set out in the preamble, 50 CFR part 679 is amended as follows:

PART 679—FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA

■ 1. The authority citation for part 679 continues to read as follows:

Authority: 16 U.S.C. 773 *et seq.;* 1801 *et seq.;* 3631 *et seq.;* Pub. L. 108–447; Pub. L. 111–281.

■ 2. In § 679.22, revise paragraph (a)(4) to read as follows:

§ 679.22 Closures.

(a) * * *

(4) *Walrus protection areas.* (i) From April 1 through September 30 of each calendar year, vessels designated on a Federal fisheries permit issued under § 679.4 are prohibited from deploying fishing gear in that part of the Bering Sea subarea between 3 and 12 nm seaward of the baseline used to measure the territorial sea around islands named Round Island and The Twins, as shown on National Ocean Survey Chart 16315, and around Cape Peirce (58°33′ N. lat., 161°43′ W. long.).

(ii) From April 1 through September 30 of each calendar year, vessels designated on a Federal fisheries permit issued under § 679.4 are prohibited in that part of the Bering Sea subarea between 3 and 12 nm seaward of the baseline used to measure the territorial sea around islands named Round Island and The Twins, as shown on National Ocean Survey Chart 16315, and around Cape Peirce (58°33′ N. lat., 161°43′ W. long.), except that from April 1 through August 15 of each calendar year vessels designated on a Federal fisheries permit are not prohibited from entering and transiting through waters off:

(A) Round Island, north of a straight line connecting 58°47.90′ N. lat./160°21.91′ W. long., and 58°32.94′ N. lat./159°35.45′ W. long.; and

(B) Cape Peirce, east of a straight line connecting 58°30.00′ N. lat./161°46.20′ W. long., and 58°21.00′ N. lat./161°46.20′ W. long.

* * * * *

[FR Doc. 2014–30817 Filed 1–2–15; 8:45 am]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 80, No. 2
Monday, January 5, 2015

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

COMMODITY FUTURES TRADING COMMISSION

17 CFR Parts 1, 15, 17, 19, 32, 37, 38, 140, and 150

RIN 3038–AD99; 3038–AD82

Position Limits for Derivatives and Aggregation of Positions

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of proposed rulemaking; reopening of comment periods.

SUMMARY: On December 12, 2013, the Commodity Futures Trading Commission (''Commission'') published in the **Federal Register** a notice of proposed rulemaking (the ''Position Limits Proposal'') to establish speculative position limits for 28 exempt and agricultural commodity futures and options contracts and the physical commodity swaps that are economically equivalent to such contracts. On November 15, 2013, the Commission published in the **Federal Register** a notice of proposed rulemaking (the ''Aggregation Proposal'') to amend existing regulations setting out the Commission's policy for aggregation under its position limits regime. On December 9, 2014, the Commission's Agricultural Advisory Committee held a public meeting that considered, among other matters, deliverable supply and exemptions for bona fide hedging positions. In conjunction with the meeting of the Commission's Agricultural Advisory Committee, the Commission posted questions and presentation materials on the Commission's Web site; additionally, access to a video webcast of the meeting has been added to the Web site. To provide commenters with a sufficient period of time to respond to questions raised and points made at the Agricultural Advisory Committee meeting, the Commission reopened the comment periods for an additional 45 days, from December 9, 2014 to January 22, 2015. The Commission is providing notice and clarification that, in addition to commenting on the agenda issues noted in the December 4, 2014, **Federal Register** release providing notice of the re-opened comment period, comments may be made on the issues addressed at the meeting or in the associated materials posted to the Commission's Web site, as they pertain to agricultural commodities.

DATES: The comment periods for the Aggregation Proposal published November 15, 2013, at 78 FR 68946, and for the Position Limits Proposal published December 12, 2013, at 78 FR 75680, reopened on December 9, 2014, and will close on January 22, 2015.

ADDRESSES: You may submit comments, identified by RIN 3038–AD99 for the Position Limits Proposal or RIN 3038–AD82 for the Aggregation Proposal, by any of the following methods:

- *Agency Web site: http://comments.cftc.gov;*
- *Mail:* Christopher Kirkpatrick, Secretary of the Commission, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW., Washington, DC 20581;
- *Hand Delivery/Courier:* Same as Mail, above; or
- *Federal eRulemaking Portal: http://www.regulations.gov*. Follow instructions for submitting comments.

Please submit your comments using only one method. All comments must be submitted in English, or if not, accompanied by an English translation. Comments will be posted as received to *http://www.cftc.gov*. You should submit only information that you wish to make available publicly. If you wish the Commission to consider information that may be exempt from disclosure under the Freedom of Information Act, a petition for confidential treatment of the exempt information may be submitted under § 145.9 of the Commission's regulations (17 CFR 145.9).

The Commission reserves the right, but shall have no obligation, to review, pre-screen, filter, redact, refuse or remove any or all of your submission from *http://www.cftc.gov* that it may deem to be inappropriate for publication, such as obscene language. All submissions that have been redacted or removed that contain comments on the merits of the rulemaking will be retained in the public comment file and will be considered as required under the Administrative Procedure Act and other applicable laws, and may be accessible under the Freedom of Information Act.

FOR FURTHER INFORMATION CONTACT: Stephen Sherrod, Senior Economist, Division of Market Oversight, (202) 418–5452, *ssherrod@cftc.gov;* or Riva Spear Adriance, Senior Special Counsel, Division of Market Oversight, (202) 418–5494, *radriance@cftc.gov*; Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW., Washington, DC 20581.

SUPPLEMENTARY INFORMATION:

I. Background

The Commission has long established and enforced speculative position limits for futures and options contracts on various agricultural commodities as authorized by the Commodity Exchange Act (''CEA'').[1] The part 150 position limits regime [2] generally includes three components: (1) The level of the limits, which set a threshold that restricts the number of speculative positions that a person may hold in the spot-month, individual month, and all months combined,[3] (2) exemptions for positions that constitute bona fide hedging transactions and certain other types of transactions,[4] and (3) rules to determine which accounts and positions a person must aggregate for the purpose of determining compliance with the position limit levels.[5] The Position Limits Proposal generally sets out proposed changes to the first and second components of the position limits regime and would establish speculative position limits for 28 exempt and agricultural commodity futures and option contracts, and physical commodity swaps that are ''economically equivalent'' to such contracts (as such term is used in CEA section 4a(a)(5)).[6] The Aggregation Proposal generally sets out proposed changes to the third component of the position limits regime.[7]

[1] 7 U.S.C. 1 *et seq.*

[2] *See* 17 CFR part 150. Part 150 of the Commission's regulations establishes federal position limits on futures and option contracts in nine enumerated agricultural commodities.

[3] *See* 17 CFR 150.2.

[4] *See* 17 CFR 150.3.

[5] *See* 17 CFR 150.4.

[6] *See* Position Limits for Derivatives, 78 FR 75680 (Dec. 12, 2013).

[7] *See* Aggregation of Positions, 78 FR 68946 (Nov. 15, 2013).

The Commission published the Position Limits Proposal and the Aggregation Proposal separately because it believes that the proposed amendments regarding aggregation of positions could be appropriate regardless of whether the Position Limits Proposal is finalized.[8] If the Aggregation Proposal is finalized first, the modifications would apply to the current position limits regime for futures and option contracts on nine enumerated agricultural commodities. If the Position Limits Proposal is subsequently finalized, the modifications in the Aggregation Proposal would apply to the position limits regime for 28 exempt and agricultural commodity futures and options contracts and the physical commodity swaps that are economically equivalent to such contracts.

In order to provide interested parties with an opportunity to comment on the Aggregation Proposal during the comment period on the Position Limits Proposal, the Commission extended the comment period for the Aggregation Proposal to February 10, 2014, the same end date as the comment period for the Position Limits Proposal.[9]

Subsequent to publication of the Position Limits Proposal and the Aggregation Proposal, the Commission directed staff to schedule a June 19, 2014, public roundtable to consider certain issues regarding position limits for physical commodity derivatives. The roundtable focused on hedges of a physical commodity by a commercial enterprise, including gross hedging, cross-commodity hedging, anticipatory hedging, and the process for obtaining a non-enumerated exemption. Discussion included the setting of spot month limits in physical-delivery and cash-settled contracts and a conditional spot-month limit exemption. Further, the roundtable included discussion of: The aggregation exemption for certain ownership interests of greater than 50 percent in an owned entity; and aggregation based on substantially identical trading strategies. As well, the Commission invited comment on whether to provide parity for wheat contracts in non-spot month limits. In conjunction with the roundtable, staff questions regarding these topics were posted on the Commission's Web site.

To provide commenters with a sufficient period of time to respond to questions raised and points made at the roundtable, the Commission published a document in the **Federal Register** on May 29, 2014, reopening the comment periods for the Position Limit Proposal and the Aggregation Proposal for three weeks, from June 12, 2014 to July 3, 2014. The Commission published notice in the **Federal Register** on July 3, 2014, further extending the comment periods to August 4, 2014.

Comment letters received on the Position Limits Proposal are available at *http://comments.cftc.gov/PublicComments/CommentList.aspx?id=1436*. Comment letters received on the Aggregation Proposal are available at *http://comments.cftc.gov/PublicComments/CommentList.aspx?id=1427*.

II. Reopening of Comment Period

The Commission's Agricultural Advisory Committee met on December 9, 2014. The agenda adopted for the meeting included consideration, among other matters, of two issues associated with the Position Limits rulemaking: Deliverable supply and exemptions for bona fide hedging positions. In conjunction with the meeting of the Commission's Agricultural Advisory Committee, the Commission posted questions and presentation materials on the Commission's Web site; additionally, access to a video webcast of the meeting has been added to the Web site.[10] To provide interested persons with a sufficient period of time to respond to questions raised and points made at the Agricultural Advisory Committee meeting, the Commission reopened both the Position Limit Proposal and the Aggregation Proposal for an additional 45-day comment period.[11] The Commission is providing notice and clarification that, in addition to commenting on the agenda issues noted in the December 4, 2014, **Federal Register** release providing notice of the reopened comment period, comments may be made on the issues addressed at the meeting or in associated materials posted to the Commission's Web site, as they pertain to agricultural commodities, including hedges of a physical commodity by a commercial enterprise; and the process for estimating deliverable supplies used in the setting of spot month limits, as each pertains to agricultural commodities.

Both comment periods reopened on December 9, 2014, and will close on January 22, 2015.

Issued in Washington, DC, on December 30, 2014, by the Commission.

Christopher J. Kirkpatrick,

Secretary of the Commission.

Note: The following appendix will not appear in the Code of Federal Regulations.

Appendix to Position Limits for Derivatives and Aggregation of Positions Reopening of Comment Periods—Commission Voting Summary

On this matter, Chairman Massad and Commissioners Wetjen, Bowen, and Giancarlo voted in the affirmative. No Commissioner voted in the negative.

[FR Doc. 2014–30831 Filed 1–2–15; 8:45 am]

BILLING CODE 6351–01–P

[8] *See id.* at 68947.

[9] *See* 79 FR 2394 (Jan. 14, 2014).

[10] Questions, presentation materials, and a video webcast have been made available at *http://www.cftc.gov/PressRoom/Events/opaevent_aac120914*.

[11] *See* 79 FR 71973 (Dec. 4, 2014).

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R05–OAR–2013–0780; FRL–9921–27–Region–5]

Approval and Promulgation of Air Quality Implementation Plans; Indiana; Minor NSR for Title V and FESOP Sources

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing approval of revisions to Indiana's minor new source review construction permit rule. The rule applies to construction of new units or modifications of existing units at sources subject to title V and Federal enforceable state operating permit requirements. If approved, this rule will replace the previous state implementation plan (SIP) minor source construction permit rule for Indiana.

DATES: Comments must be received on or before February 4, 2015.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R05–OAR–2013–0780, by one of the following methods:

1. *www.regulations.gov:* Follow the on-line instructions for submitting comments.
2. *Email: damico.genevieve@epa.gov.*
3. *Fax:* (312) 385–5501.
4. *Mail:* Genevieve Damico, Chief, Air Permits Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.
5. *Hand Delivery:* Genevieve Damico, Chief, Air Permits Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

Such deliveries are only accepted during the Regional Office normal hours of operation, and special arrangements should be made for deliveries of boxed information. The Regional Office official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

Instructions: Direct your comments to Docket ID No. EPA–R05–OAR–2013–0780. 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 instructions on submitting comments, go to Section I of the **SUPPLEMENTARY INFORMATION** section of this document.

Docket: All documents in the docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, *e.g.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at the Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays. We recommend that you telephone Sam Portanova, Environmental Engineer, at (312) 886–3189 before visiting the Region 5 office.

FOR FURTHER INFORMATION CONTACT: Sam Portanova, Environmental Engineer, Air Permits Section, Air Programs Branch (AR–18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–3189, *portanova.sam@epa.gov.*

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

I. What should I consider as I prepare my comments for EPA?
II. What is being addressed in this document?
III. What are the changes that EPA is approving?
IV. What action is EPA taking?
V. Statutory and Executive Order Reviews.

I. What should I consider as I prepare my comments for EPA?

When submitting comments, remember to:

1. Identify the rulemaking by docket number and other identifying information (subject heading, **Federal Register** date and page number).
2. Follow directions—EPA may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.
3. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.
4. Describe any assumptions and provide any technical information and/or data that you used.
5. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.
6. Provide specific examples to illustrate your concerns, and suggest alternatives.
7. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.
8. Make sure to submit your comments by the comment period deadline identified.

II. What is being addressed in this document?

On November 7, 2013, the Indiana Department of Environmental Management (IDEM) submitted a SIP revision request to EPA for minor new source review (NSR) construction permit rules. EPA last approved Indiana's minor construction permit rules (326 IAC 2–1) on October 7, 1994 (59 FR 51108). In this action, EPA is approving amendments to 326 IAC 2–7–10.5(a), (c) through (j), (l), and (m), and to 326 IAC 2–8–11.1 as revisions to Indiana's SIP. These provisions do not apply to permitting actions that trigger major prevention of significant deterioration (PSD) or nonattainment NSR requirements. 326 IAC 2–7–10.5 and 326 IAC 2–8–11.1 replace 326 IAC 2–1, which has been repealed in the state rules, as the minor NSR construction permit rules in the Indiana SIP.

III. What are the changes that EPA is approving?

326 IAC 2–7–10.5 is Indiana's minor source construction permit rule for sources that are subject to the title V operating permit program. 326 IAC 2–8–11.1 is Indiana's minor source construction permit rule for sources that are subject to the Federally enforceable state operating permit (FESOP) program. The requirements and emission thresholds under these two rules are essentially the same and we are providing one summary below that covers both rules. These rules apply to permitting actions that are not subject to PSD or nonattainment NSR. Any permit modification that exceeds the PSD or nonattainment NSR thresholds in 326 IAC 2–2 and 326 IAC 2–3 continues to be subject to the requirements of those rules.

Pursuant to 326 IAC 2–7–10.5(e) or 326 IAC 2–8–11.1(d), a permitting action is subject to the minor modification requirements of this rule if it has a potential to emit (PTE) greater than or equal to the following: 5 tons per year (tpy) of particulate matter (PM), PM less than 10 microns in size (PM_{10}), PM less than 2.5 microns in size ($PM_{2.5}$), hydrogen sulfide (H_2S), total reduced sulfur (TRS), reduced sulfur compounds, or fluorides; 10 tpy of sulfur dioxide (SO_2), nitrogen oxide (NO_X), or volatile organic compounds (VOC); 25 tpy of carbon monoxide (CO); or 0.2 tpy of lead. For VOC emissions, the minor modification requirements apply if the PTE is greater than or equal to 5 tpy for modifications that require the use of air pollution control equipment to comply with the provisions of 326 IAC 8.

For permitting actions that meet the criteria for minor modification under this rule, the source is required to submit a permit application to IDEM pursuant to 326 IAC 2–7–10.5(d) or 326 IAC 2–8–11.1 (c). Pursuant to 326 IAC 2–7–10.5(f) or 326 IAC 2–8–11.1(e), within 45 days of receipt of the application, IDEM shall approve the request, deny the request, determine that the request would cause or

contribute to a violation of a national ambient air quality standard (NAAQS) or a PSD increment standard, or determine that the request is subject to the significant modification provisions of this rule.

Pursuant to 326 IAC 2–7–10.5(g) or 326 IAC 2–8–11.1(f)(1), a permitting actions is subject to the significant modification requirements if it has a PTE greater than or equal to 100 tpy of CO or 25 tpy of PM, PM_{10}, $PM_{2.5}$, SO_2, NO_X, VOC, H_2S, TRS, reduced sulfur compounds, or fluorides. For lead, the significant modification requirements apply for any modification with a PTE greater than or equal to 1 tpy. If the entire source has a lead PTE of greater than or equal to 5 tpy, the significant modification requirements apply for a modification with a lead PTE greater than 0.6 tpy.

In addition to the requirements for a minor modification, 326 IAC 2–7–10.5(h) and 326 IAC 2–8–11.1(f)(2) require a permitting action that meets the criteria for a significant modification under this rule to go through public notice prior to permit issuance pursuant to 326 IAC 2–1.1–6 (which EPA approved into Indiana's SIP on March 3, 2003 (68 FR 9892)). Public notice requirements for significant permit revisions under 326 IAC 2–8–11.1 are conducted pursuant to 326 IAC 2–8–13 (which EPA approved into Indiana's SIP on August 18, 1995 (60 FR 43008)). This satisfies the public notice requirements for minor construction permits in 40 CFR 51.161.

The significant modification emission thresholds for pollutants other than CO are the same as those contained in Indiana's existing SIP-approved minor NSR rules. The 100 tpy CO emission threshold for significant modifications, however, is less stringent than the 25 tpy applicability threshold in the existing SIP-approved Indiana minor NSR rules. IDEM included an analysis in the November 7, 2013, SIP submittal to EPA demonstrating that the 100 tpy threshold is protective of the CO NAAQS. In the analysis, IDEM reviewed CO point source emissions and ambient air monitoring data from 2000 through 2012. IDEM selected recent PSD sources for modeling at 100 tpy with the modeled results compared to the 1-hour and 8-hour CO significant impact levels (SILs). The modeling results showed no exceedances of either the 1-hour or 8-hour CO SILs. Existing CO monitors in Indiana show ambient values well below the NAAQS. As a result, IDEM has shown that ambient air quality will remain well below the NAAQS, even with the addition of sources that emit CO at 100 tpy. Indiana's analysis of the CO threshold satisfies 40 CFR 51.160(e), which requires states to identify sources that will be subject to minor construction permit provisions and discuss the basis for determining which sources will be subject to review. EPA proposes approval of the minor and significant modification thresholds in 326 IAC 2–7–10.5 and 326 IAC 2–8–11.1.

326 IAC 2–7–10.5(c) and 326 IAC 2–8–11.1(b) allow sources to repair or replace an emission unit or air pollution control equipment without prior approval. To qualify for this provision, a modification must meet the following criteria: (1) The PTE of each regulated pollutant after the modification is less than or equal to the PTE of the unit that was repaired or replaced; (2) the modification is not major under 326 IAC 2–2, 326 IAC 2–3, or 326 IAC 2–4.1; [1] and (3) the modification returns the unit to normal operation after an upset, malfunction, or mechanical failure or prevents impeding and imminent failure of the unit. Item 2 above means any action that would trigger major PSD, nonattainment NSR, or hazardous pollutant requirements under Section 112(g) of the Clean Air Act (CAA) is not eligible for this provision. Since sources must meet all three of the criteria listed above in order to qualify for the repair or replacement provision, EPA believes that these criteria sufficiently narrow the universe of modifications that are eligible. EPA proposes approval of 326 IAC 2–7–10.5(c) and 326 IAC 2–8–11.1(b).

326 IAC 2–7–10.5(b) and (k) address provisions for incorporating terms from Federal consent decrees and Federal district court orders into construction permits. EPA previously approved these portions of 326 IAC 2–7–10.5 into Indiana's SIP on January 17, 2014 (79 FR 3120).

IV. What action is EPA taking?

EPA is proposing to approve Indiana's minor source construction permit rule in 326 IAC 2–7–10.5(a), (c) through (j), (l), and (m), and 326 IAC 2–8–11.1. EPA has determined that the emission thresholds and permitting requirements discussed above satisfy the requirements of 40 CFR 51.160 and 51.161. EPA is not proposing action on 326 IAC 2–7–10.5(b) and (k) because these portions of the state's rule have already been approved into Indiana's SIP.

[1] 326 IAC 2–4.1 is IDEM's regulation implementing the requirements of Section 112(g) of the Clean Air Act for sources with hazardous air pollutant (HAP) emissions above 10 tpy for a single HAP or 25 tpy for a combination of HAPs.

V. Statutory and Executive Order Reviews

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

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

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as

specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

List of Subjects in 40 CFR Part 52

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

Dated: December 22, 2014.

Susan Hedman,

Regional Administrator, Region 5.

[FR Doc. 2014–30832 Filed 1–2–15; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

46 CFR Part 105

Docket No. USCG–2014–0195]

RIN 1625–AC18

Commercial Fishing Vessels Dispensing Petroleum Products

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking: notice of reopening of comment period.

SUMMARY: The Coast Guard is reopening the public comment period on the notice of proposed rulemaking (NPRM) entitled ''Commercial Fishing Vessels Dispensing Petroleum Products,'' published in the **Federal Register** on August 20, 2014. The notice of proposed rulemaking included an incorrect docket number, USCG–2013–0195, and has been reopened with the correct docket number, USCG–2014–0195, to facilitate public comment.

DATES: Comments and related material must be submitted online via *http://www.regulations.gov,* or reach the Docket Management Facility, on or before February 4, 2015.

ADDRESSES: You may submit comments identified by docket number USCG–2014–0195 using any one of the following methods:

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

(2) *Fax:* 202–493–2251.

(3) *Mail:* Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590–0001.

(4) *Hand Delivery:* Same as mail address above, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

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

FOR FURTHER INFORMATION CONTACT: If you have questions on this notice, call or email Jack Kemerer, Fishing Vessel Safety Division (CG–CVC–3), Office of Commercial Vessel Compliance (CVC), U.S. Coast Guard; telephone 202–372–1249, email *Jack.A.Kemerer@uscg.mil.* If you have questions on viewing or submitting material to the docket, call Cheryl Collins, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

A. Public Participation and Request for Comments

We encourage you to submit comments and related material on the notice of proposed rulemaking. All comments received will be posted, without change, to *http://www.regulations.gov* and will include any personal information you have provided.

Submitting comments: If you submit a comment, please include the docket number for this notice (USCG–2014–0195) 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. We recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

To submit your comment online, go to *http://www.regulations.gov,* click on the ''submit a comment'' box, which will then become highlighted in blue. In the ''Document Type'' drop down menu select ''Proposed Rule'' and insert ''USCG–2014–0195'' in the ''Keyword'' box. Click ''Search'' then click on the balloon shape in the ''Actions'' column. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period and may change this proposed rule based on your comments.

B. Viewing Comments and Documents

To view comments, as well as documents mentioned in this notice as being available in the docket, go to *http://www.regulations.gov,* click on the ''read comments'' box, which will then become highlighted in blue. In the ''Keyword'' box insert ''USCG–2014–0195'' and click ''Search.'' Click the ''Open Docket Folder'' in the ''Actions'' column. 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 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. We have an agreement with the Department of Transportation to use the Docket Management Facility.

C. Privacy Act

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

D. Public Meeting

The Coast Guard does not currently plan to hold a public meeting. You may submit a request for one to the docket using one of the methods specified under **ADDRESSES**. In your request, explain why you believe a public meeting would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register.**

E. Background and Purpose

We received no comments on the NPRM published August 20, 2014.[1] However, because the notice announcing the proposed rule included an incorrect docket number, we are reopening the comment period in case the incorrect number confused any member of the public.

[1] 79 FR 49621.

Dated: December 29, 2014.

J.C. Burton,

Captain, U.S. Coast Guard, Director of Prevention and Compliance.

[FR Doc. 2014–30810 Filed 1–2–15; 8:45 am]

BILLING CODE 9110–04–P

Notices

Federal Register
Vol. 80, No. 2
Monday, January 5, 2015

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

Tongass Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Tongass Advisory Committee (Committee) will meet in Juneau, Alaska. The Committee is established consistent with the Federal Advisory Committee Act of 1972 (5 U.S.C. App. 2). Additional information concerning the Committee, including the meeting summary/minutes, can be found by visiting the Committee's Web site at: *http://www.fs.usda.gov/goto/R10/Tongass/TAC*. The meeting is open to the public.

DATES: The meeting will be held on:

- January 20, 2015 from 1:00 p.m. to 5:00 p.m. (AKDT).
- January 21, 2015 from 8:30 a.m. to 5:00 p.m. (AKDT).
- January 22, 2015 from 8:30 a.m. to 5:00 p.m. (AKDT).
- January 23, 2015 from 8:30 a.m. to 4:00 p.m. (AKDT).

All meetings are subject to change and cancellation. For updated status of the meetings prior to attendance, please visit the Web site listed in the **SUMMARY** section, or contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

ADDRESSES: The meetings will be held at the Aspen Suites Hotel, 8400 Airport Blvd., Juneau, Alaska 99801. Written comments may be submitted as described under **SUPPLEMENTARY INFORMATION**. All comments, including names and addresses when provided, are placed in the record and available for public inspection and copying. The public may inspect comments received at the Tongass National Forest Office. Please call ahead to facilitate entry into the building.

FOR FURTHER INFORMATION CONTACT: Nicole McMurren, Committee Coordinator, by phone at 907–772–5875, or by email at *nmcmurren@fs.fed.us*. Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8:00 a.m. and 8:00 p.m., Eastern Standard Time, Monday through Friday.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to:

(1) Review themes and suggestions in written and verbal public comments that have been submitted to the Committee to date;

(2) Review protocols and procedures for formalizing and forwarding Committee recommendations;

(3) Clarify perspectives and interests with regards to where and how young growth should be harvested;

(4) Refine list of possible implementation strategy topics/work group assignment(s) in anticipation of future deliberations on those topics; and

(5) Revisit goals, dates, locations and logistics for upcoming meetings.

Recommendations and advice may directly inform the development of a proposed action for modification of the 2008 Tongass Land Management Plan. In addition, there will be time allotted on the agenda for oral public comment. Those interested in providing comment orally can register at the meeting. Anyone who would like to bring related matters to the attention of the Committee may file written statements with the Committee's staff before or after the meeting. Written comments should be sent to Jason Anderson, Designated Federal Officer, Tongass National Forest, P.O. Box 309, Petersburg, Alaska 99833; by email to *jasonanderson@fs.fed.us,* or via facsimile to 907–772–5895. Summary/minutes of the meeting will be posted on the Web site listed above within 45 days after the meeting.

Meeting Accommodations: If you are a person requiring reasonable accommodation, please make requests in advance for sign language interpreting, assistive listening devices or other reasonable accommodation for access to the facility or proceedings by contacting the person listed in the section titled **FOR FURTHER INFORMATION CONTACT**. All reasonable accommodation requests are managed on a case by case basis.

Dated: December 23, 2014.

Jason Anderson,

Deputy Forest Supervisor, Tongass National Forest.

[FR Doc. 2014–30792 Filed 1–2–15; 8:45 am]

BILLING CODE 3411–15–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: Fishermen's Contingency Fund.

OMB Control Number: 0648–0082.

Form Number(s): NOAA 8–164 and 88–166.

Type of Request: Regular (revision and extension of a currently approved information collection).

Number of Respondents: 40.

Average Hours per Response: Application: 7 hours and 45 minutes; 15-day report, 15 minutes.

Burden Hours: 320.

Needs and Uses: This request is for revisions to, and an extension of, a currently approved information collection. United States (U.S.) commercial fishermen may file claims for compensation for losses of, or damage to, fishing gear or vessels, plus 50 percent of resulting economic losses, attributable to oil and gas activities on the U.S. Outer Continental Shelf. To obtain compensation, applicants must comply with requirements set forth in 50 CFR part 296.

The requirements include a ''report'' within 15 days of the date the vessel first returns to port after the casualty incident to gain a presumption of eligible causation and an ''application'' within 90 days of when the applicant first became aware of the lost and/or damage.

The report is NOAA Form 88–166 and it requests identifying information such as: respondent's name; address; social security number; and casualty location. The information in the report is usually completed by NOAA during a telephone call with the respondent.

The application is NOAA Form 88–164 and it requires the respondent to provide information on the property and economic losses and/or damages including: type of damage; purchase date and price of lost/damaged gear; and income from recent fishing trips. It also includes an affidavit by which the applicant attests to the truthfulness of the claim.

The currently approved forms are being revised to improve the usability by allowing respondents to complete pdf versions of the forms as well as reducing the paper size from legal to letter. Prior sections that contained multiple questions have been separated to simplify the responses and to help ensure more complete and accurate responses. Because ''Loran C'' is no longer being used for locational coordinates, the term will be replaced with ''GPS'' for Global Positioning System. Clarification of some of the instructions will also be provided, based on previous applicants' responses and submitted reports and applications.

Affected Public: Business or other for-profit organizations; individuals or households.

Frequency: On occasion.

Respondent's Obligation: Required to obtain or maintain 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 31, 2014.

Glenna Mickelson,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2014–30925 Filed 1–2–15; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

Economic Development Administration

Notice of Petitions by Firms for Determination of Eligibility To Apply for Trade Adjustment Assistance

AGENCY: Economic Development Administration, Department of Commerce.

ACTION: Notice and Opportunity for Public Comment.

Pursuant to Section 251 of the Trade Act 1974, as amended (19 U.S.C. 2341 *et seq.*), the Economic Development Administration (EDA) has received petitions for certification of eligibility to apply for Trade Adjustment Assistance from the firms listed below. Accordingly, EDA has initiated investigations to determine whether increased imports into the United States of articles like or directly competitive with those produced by each of these firms contributed importantly to the total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of each petitioning firm.

LIST OF PETITIONS RECEIVED BY EDA FOR CERTIFICATION ELIGIBILITY TO APPLY FOR TRADE ADJUSTMENT ASSISTANCE

[12/23/2014 through 12/29/2014]

Firm name	Firm address	Date accepted for investigation	Product(s)
UltraGlas, Inc.	9200 Gazette Avenue, Chatsworth, CA 91311.	12/29/2014	The firm manufactures purchased glass including wall systems, dividers, screens, shower and bath enclosures.

Any party having a substantial interest in these proceedings may request a public hearing on the matter. A written request for a hearing must be submitted to the Trade Adjustment Assistance for Firms Division, Room 71030, Economic Development Administration, U.S. Department of Commerce, Washington, DC 20230, no later than ten (10) calendar days following publication of this notice.

Please follow the requirements set forth in EDA's regulations at 13 CFR 315.9 for procedures to request a public hearing. The Catalog of Federal Domestic Assistance official number and title for the program under which these petitions are submitted is 11.313, Trade Adjustment Assistance for Firms.

Dated: December 29, 2014.

Michael S. DeVillo,

Eligibility Examiner.

[FR Doc. 2014–30820 Filed 1–2–15; 8:45 am]

BILLING CODE 3510–WH–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–552–801]

Certain Frozen Fish Fillets From the Socialist Republic of Vietnam: Amended Rescission of Antidumping Duty New Shipper Review

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: To correct a ministerial error, the Department of Commerce (''the Department'') is amending the rescission of the new shipper review (''NSR'') of the antidumping duty order on certain frozen fish fillets (''fish fillets'') from the Socialist Republic of Vietnam (''Vietnam'') concerning Thanh Hung Co., Ltd. D/B/A Thanh Hung Frozen Seafood Processing Import Export Co., Ltd. (''Thanh Hung'').[1] The period of review (''POR'') is August 1, 2012, through July 31, 2013.

DATES: *Effective Date:* January 5, 2015.

FOR FURTHER INFORMATION CONTACT: Susan Pulongbarit, AD/CVD Operations, Office V, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–4031.

SUPPLEMENTARY INFORMATION:

Background

On December 3, 2014, the Department published the *Final Rescission* of this NSR. After reviewing the *Final Rescission,* the Department independently determined that it made a ministerial error, as described below.

Scope of the Order

The product covered by the order is frozen fish fillets, including regular,

[1] *See Certain Frozen Fish Fillets From the Socialist Republic of Vietnam: Rescission of Antidumping New Shipper Review,* 79 FR 71748 (December 3, 2014) (''*Final Rescission*'').

shank, and strip fillets and portions thereof, whether or not breaded or marinated, of the species *Pangasius Bocourti, Pangasius Hypophthalmus* (also known as *Pangasius Pangasius*) and *Pangasius Micronemus.* These products are classifiable under tariff article codes 0304.29.6033, 0304.62.0020, 0305.59.0000, 0305.59.4000, 1604.19.2000, 1604.19.2100, 1604.19.3000, 1604.19.3100, 1604.19.4000, 1604.19.4100, 1604.19.5000, 1604.19.5100, 1604.19.6100 and 1604.19.8100 (Frozen Fish Fillets of the species *Pangasius* including basa and tra) of the Harmonized Tariff Schedule of the United States (''HTSUS'').[2] Although the HTSUS subheading is provided for convenience and customs purposes, our written description of the scope of the order is dispositive.

For a full description of the scope, see ''New Shipper Review of Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Ministerial Error Memorandum,'' dated concurrently with and hereby adopted by this notice (''Ministerial Error Memo'').

Ministerial Errors

Section 751(h) of the Tariff Act of 1930, as amended (''the Act''), and 19 CFR 351.224(f) define a ''ministerial error'' as an error ''in addition, subtraction, or other arithmetic function, clerical error resulting from inaccurate copying, duplication, or the like, and any similar type of unintentional error which the Secretary considers ministerial.'' After reviewing the *Final Rescission,* the Department has determined that it incorrectly stated that the Vietnam-wide rate is 2.39 U.S. dollars per kilogram (''kg''). The correct Vietnam-wide rate is 2.11 U.S. dollars per kg.[3] For a detailed discussion of this ministerial error, as well as the Department's analysis, *see* the Ministerial Error Memo.

In accordance with section 751(h) of the Act and 19 CFR 351.224(e), we are amending the *Final Rescission* of the new shipper review of fish fillets from Vietnam. The revised cash deposit dumping rate is detailed below.

Amended Cash Deposit Rate for the New Shipper Review

The following amended cash deposit requirements apply for all shipments of subject merchandise from Thanh Hung entered or withdrawn from warehouse: (1) For subject merchandise produced and exported by Thanh Hung, the cash deposit rate will be the Vietnam-wide rate (*i.e.,* 2.11 U.S. dollars per kg); (2) for subject merchandise exported by Thanh Hung but not manufactured by Thanh Hung, the cash deposit rate will continue to be the Vietnam-wide rate (*i.e.,* 2.11 U.S. dollars per kg); and (3) for subject merchandise manufactured by Thanh Hung, but exported by any other party, the cash deposit rate will be the rate applicable to the exporter. These cash deposit requirements shall remain in effect until further notice.

Reimbursement of Duties

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this POR. Failure to comply with this requirement could result in the Department's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of doubled antidumping duties.

Administrative Protective Order

This notice also serves as a reminder to parties subject to Administrative Protective Order (''APO'') of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305, which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return or destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

These amended final results are published in accordance with sections 751(h) and 777(i)(1) of the Act.

Dated: December 29, 2014.

Paul Piquado,

Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2014–30842 Filed 1–2–15; 8:45 am]

BILLING CODE 3510–DS–P

[2] Until July 1, 2004, these products were classifiable under HTSUS 0304.20.6030 (Frozen Catfish Fillets), 0304.20.6096 (Frozen Fish Fillets, NESOI), 0304.20.6043 (Frozen Freshwater Fish Fillets) and 0304.20.6057 (Frozen Sole Fillets). Until February 1, 2007, these products were classifiable under HTSUS 0304.20.6033 (Frozen Fish Fillets of the species *Pangasius,* including basa and tra). On March 2, 2011, the Department added two HTSUS numbers at the request of U.S. Customs and Border Protection (''CBP''): 1604.19.2000 and 1604 19.3000. On January 30, 2012, the Department added eight HTSUS numbers at the request of CBP: 0304.62.0020, 0305.59.0000, 1604.19.2100, 1604.19.3100, 1604.19.4100, 1604.19.5100, 1604.19.6100 and 1604.19.8100.

[3] *See Certain Frozen Fish Fillets From the Socialist Republic of Vietnam: Amended Final Results of Antidumping Duty Administrative Review; 2011–2012,* 79 FR 37714, 37715 (July 2, 2014).

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

Manufacturing Extension Partnership Advisory Board

AGENCY: National Institute of Standards and Technology, Commerce.

ACTION: Notice of open meeting.

SUMMARY: The National Institute of Standards and Technology (NIST) announces that the Manufacturing Extension Partnership (MEP) Advisory Board will hold an open meeting on Wednesday, January 21, 2015 from 8:00 a.m. to 2:00 p.m. Eastern Time.

DATES: The meeting will be held Wednesday, January 21, 2015, from 8:00 a.m. to 2:00 p.m. Eastern Time.

ADDRESSES: The meeting will be held at the NIST, 100 Bureau Drive, Gaithersburg, MD 20899. Please note admittance instructions in the **SUPPLEMENTARY INFORMATION** section below.

FOR FURTHER INFORMATION CONTACT: Kari Reidy, Manufacturing Extension Partnership, National Institute of Standards and Technology, 100 Bureau Drive, Mail Stop 4800, Gaithersburg, MD 20899–4800, telephone number (301) 975–4919, email: *kari.reidy@nist.gov.*

SUPPLEMENTARY INFORMATION: The MEP Advisory Board (Board) is authorized under section 3003(d) of the America COMPETES Act (Pub. L. 110–69); codified at 15 U.S.C. 278k(e), as amended, in accordance with the provisions of the Federal Advisory Committee Act, as amended, 5 U.S.C. App. The Board is composed of 10 members, appointed by the Director of NIST. Hollings MEP is a unique program, consisting of centers across the United States and Puerto Rico with partnerships at the state, federal, and local levels. The Board provides a forum for input and guidance from Hollings MEP program stakeholders in the formulation and implementation of tools and services focused on supporting and growing the U.S. manufacturing industry, provides advice on MEP programs, plans, and policies, assesses the soundness of MEP plans and strategies, and assesses

current performance against MEP program plans.

Background information on the Board is available at *http://www.nist.gov/mep/about/advisory-board.cfm.*

Pursuant to the Federal Advisory Committee Act, as amended, 5 U.S.C. App., notice is hereby given that the MEP Advisory Board will hold an open meeting on Wednesday, January 21, 2015 from 8:00 a.m. to 2:00 p.m. Eastern Time. This meeting will focus on updates from the new sub-committees on (1) Technology Acceleration and (2) Board Governance. The final agenda will be posted on the MEP Advisory Board Web site at *http://www.nist.gov/mep/about/advisory-board.cfm.*

Admittance Instructions: Anyone wishing to attend this meeting should submit their name, email address and phone number to Kari Reidy (*Kari.Reidy@nist.gov* or 301–975–4919) no later than Wednesday, January 14, 2015, 5:00 p.m. Eastern Time. Non-U.S. citizens must submit additional information; please contact Ms. Reidy. All attendees must pre-register in order to be admitted to the NIST campus. Also, please note that under the REAL ID Act of 2005 (Pub. L. 109–13), federal agencies, including NIST, can only accept a state-issued driver's license or identification card for access to federal facilities if issued by states that are REAL ID compliant or have an extension. NIST also currently accepts other forms of federal-issued identification in lieu of a state-issued driver's license. For detailed information please contact Ms. Reidy or visit: *http://www.nist.gov/public_affairs/visitor/.*

Individuals and representatives of organizations who would like to offer comments and suggestions related to the MEP Advisory Board's business are invited to request a place on the agenda. Approximately 15 minutes will be reserved for public comments at the beginning of the meeting. Speaking times will be assigned on a first-come, first-served basis. The amount of time per speaker will be determined by the number of requests received but is likely to be no more than three to five minutes each. The exact time for public comments will be included in the final agenda that will be posted on the MEP Advisory Board Web site as *http://www.nist.gov/mep/about/advisory-board.cfm.* Questions from the public will not be considered during this period. Speakers who wish to expand upon their oral statements, those who had wished to speak but could not be accommodated on the agenda, and those who were unable to attend in person are invited to submit written statements to the MEP Advisory Board, National Institute of Standards and Technology, National Institute of Standards and Technology, 100 Bureau Drive, Mail Stop 4800, Gaithersburg, MD 20899–4800, or via fax at (301) 963–6556, or electronically by email to *kari.reidy@nist.gov.*

Dated: December 22, 2014.

Phillip Singerman,

Associate Director for Innovation & Industry Services.

[FR Doc. 2014–30849 Filed 1–2–15; 8:45 am]

BILLING CODE 3510–13–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Intent To Prepare an Environmental Impact Statement for the East Campus Integration Program Within the Fort Meade Complex, Maryland

AGENCY: Department of Defense.

ACTION: Notice of intent; notice of public meeting; request for comments.

SUMMARY: The Department of Defense (DoD) announces its intent to prepare an Environmental Impact Statement (EIS) as part of the environmental planning process for the East Campus Integration Program at Fort George G. Meade, Maryland (hereafter referred to as Fort Meade). The DoD proposes to develop operational complex and headquarters space at the National Security Agency's (NSA) East Campus on Fort Meade for use by NSA and the Intelligence Community. The purpose of the Proposed Action is to provide facilities that are fully supportive of the Intelligence Community's function and to continue to integrate the East Campus site with the NSA Main Campus. The need for the action is to meet mission requirements, both internally at the NSA and within the Intelligence Community.

Publication of this notice begins a scoping process that identifies and determines the scope of environmental issues to be addressed in the EIS. This notice requests public participation in the scoping process and provides information on how to participate.

DATES: There will be an open house at 4:00 p.m. followed by a scoping meeting from 5:00 p.m. to 7:00 p.m. on January 27, 2015. Comments or questions regarding this EIS should be submitted by February 27, 2015 to ensure sufficient time to consider public input in the preparation of the Draft EIS.

ADDRESSES: The open house and scoping meeting will be held at the Severn Community Library, 2624 Annapolis Road, Severn, Maryland 21144. Verbal and written comments will be accepted at the scoping meeting. You can also submit written comments to ''East Campus Integration Program EIS'' c/o HDR, 2600 Park Tower Drive, Suite 100, Vienna, VA 22180 or submit by email to *ECIPEIS@hdrinc.com.*

FOR FURTHER INFORMATION CONTACT: Mr. Jeffrey Williams at 301–688–2970, or email *jdwill2@nsa.gov.*

SUPPLEMENTARY INFORMATION:

Background: The NSA is a tenant DoD agency on Fort Meade. NSA is a high-technology communications and data processing organization. In order to meet mission requirements, both at the NSA and within the Intelligence Community, continued integration of the East Campus with the NSA Main Campus on Fort Meade through development of office, operational, and headquarters space is needed. In 2010, NSA completed an EIS that addressed development of the East Campus, which is the northern part of the former Fort Meade golf course. The Record of Decision implemented the first phase of development identified in that EIS, which is currently occurring in the southern portion of the East Campus. This upcoming East Campus Integration Program EIS will address buildout of the northern portion of the East Campus.

Proposed Action and Alternatives: The East Campus Integration Program was initiated to provide a modern office, operational, and headquarters complex to meet the growth requirements of the NSA and Intelligence Community. Development is proposed along the East Campus central core extending through the NSA Main Campus at Fort Meade. The Proposed Action would consist of the construction of approximately 2,880,000 square feet of office, operational, and headquarters space supporting an increase of 7,200 people with the majority from local leases and government-owned buildings to the NSA Main Campus. The program also includes the demolition of approximately 1,900,000 square feet of aged buildings and infrastructure. Development would include associated infrastructure (*e.g.,* electrical substation, generator capacity providing 121 megawatts of electricity, life/safety generators, building heating systems, roads, sidewalks, storm water management facilities, and parking structures).

Alternatives identified include four options for redundant emergency backup power generation and various pollution control systems, two options for building heating systems, four

options for locations of parking structures, and acquisition of additional space at two existing, offsite leased locations. These alternatives will be further developed during preparation of the Draft EIS as a result of public and agency input and environmental analyses of the activities. The No Action Alternative (not undertaking the East Campus Integration Program) will also be analyzed in detail.

This notice of intent is required by 40 Code of Federal Regulations (CFR) 1508.22 and briefly describes the Proposed Action and possible alternatives and our proposed scoping process. The EIS will comply with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321 *et seq.*), the Council on Environmental Quality regulations in 40 CFR parts 1500 through 1508, and DoD Instruction 4715.9 (Environmental Planning and Analysis).

Significant Issues: Environmental issues to be analyzed in the EIS will include potential impacts on air quality, noise, natural resources, water use, solid waste, hazardous materials and wastes, transportation, and cumulative impacts from increased burdens on the installation and neighboring community based on projected development.

Scoping Process: Public scoping is an early and open process for identifying and determining the scope of issues to be addressed in the EIS. Scoping begins with this notice, continues through the public comment period (see **DATES**), and ends when the DoD has completed the following actions:

—Invites the participation of Federal, State, and local agencies, any affected Indian tribes, and other interested persons;
—Determines the actions, alternatives, and impacts described in 40 CFR 1508.25;
—Identifies and eliminates from detailed study those issues that are not significant or that have been covered elsewhere;
—Indicates any related EISs or environmental assessments (EAs) that are not part of the EIS;
—Identifies other relevant environmental review and consultation requirements;
—Indicates the relationship between timing of the environmental review and other aspects of the proposed program;
—At its discretion, exercises the options provided in 40 CFR 1501.7(b).

Once the scoping process is complete, DoD will prepare a Draft EIS, and will publish a **Federal Register** notice announcing its public availability. If you want that notice to be sent to you, please contact the DoD Project Office point of contact identified in **FOR FURTHER INFORMATION CONTACT**. You will have an opportunity to review and comment on the Draft EIS. Additionally, the DoD anticipates holding a public meeting after publication of the Draft EIS in the vicinity of Fort Meade, Maryland, to present the Draft EIS and receive public comments regarding the document. The DoD will consider all comments received and then prepare the Final EIS. As with the Draft EIS, the DoD will announce the availability of the Final EIS and once again give you an opportunity for review and comment.

Dated: December 19, 2014.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2014–30343 Filed 1–2–15; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

Termination of Environmental Impact Statement (EIS) for the Alaska Department of Transportation & Public Facilities Foothills West Transportation Access Project

AGENCY: U.S. Army Corps of Engineers, Department of Defense.

ACTION: Withdrawal of notice of intent.

SUMMARY: The Alaska District, U.S. Army Corps of Engineers (Corps) is notifying interested parties that it has terminated the process to develop an Environmental Impact Statement and has withdrawn the application for a Department of the Army permit from the Alaska Department of Transportation and Public Facilities (DOT&PF) proposed Foothills West Transportation Access Project (Foothills Project). The original Notice of Intent to Prepare the EIS was published in the **Federal Register** on May 20, 2011 (76 FR 29218).

FOR FURTHER INFORMATION CONTACT: Questions regarding the termination of this EIS process should be addressed to: Ms. Melissa Riordan, Regulatory Division, telephone: (907) 474–2166, or mail: U.S. Army Corps of Engineers, CEPOA–RD, 2175 University Avenue, Suite 201(E), Fairbanks, AK 99709–4927. Or email: *melissa.c.riordan@usace.army.mil.* Emailed questions, including attachments, should be provided in .doc, .docx, .pdf or .txt formats.

SUPPLEMENTARY INFORMATION: The Alaska District published the original Notice of Intent to prepare the EIS for the proposed Foothills project in the **Federal Register** on Friday, May 20, 2011 (76 FR 29218). In the summer of 2013 the Alaska DOT&PF decided to re-evaluate plans for future EIS work, and in response the Corps suspended work and closed the EIS project file. After confirming on October 21, 2014 that the DOT&PF has no future plans to proceed with the project, the Corps officially determined that it is appropriate to terminate the EIS. The Corps' neutral role in the EIS process was to evaluate the environmental consequences of the proposed project under the authority of Section 10 of the River and Harbors Act of 1899 and Section 404 of the Clean Water Act. The preparation of the EIS was being conducted by a third-party contractor directed by the Corps, and funded by the applicant, which is typical of the Corps Regulatory EIS studies. Withdrawal of the permit application and termination of the EIS process will not prevent DOT&PF from reapplying at a later date.

Dated: November 3, 2014.

Approved by:

Michael Salyer,

North Branch Chief, Alaska District, U.S. Army Corps of Engineers.

[FR Doc. 2014–30862 Filed 1–2–15; 8:45 am]

BILLING CODE 3720–58–P

DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

Notice of Intent To Prepare a Draft Environmental Impact Statement (EIS), Initiate the Public Scoping Period and Host Public Scoping Meetings for the Great Lakes and Mississippi River Interbasin Study (''GLMRIS'')—Evaluation of Aquatic Nuisance Species Controls Near Brandon Road Lock and Dam: Extension of the Public Scoping Period and Announcement of an Additional Public Scoping Meeting Location

AGENCY: U.S. Army Corps of Engineers, DoD.

ACTION: Notice.

SUMMARY: Reference the Notice of Intent published in the **Federal Register** on Thursday, November 20, 2014, volume 79, number 224, pages 69099–100 (79 FR 69099). This notice extends the public comment period and identifies an additional location for a GLMRIS public scoping meeting. For convenience, the **SUPPLEMENTARY INFORMATION** section of the November 20, 2014 notice has been reprinted with

new text announcing the extension of the public comment period and the additional location where USACE will host a scoping meeting.

DATES: The NEPA public scoping period ends on January 30, 2015. Please refer to the ''*Scoping and Public Involvement*'' section below for instructions on ways to submit public comments.

FOR FURTHER INFORMATION CONTACT: For further information and/or questions about GLMRIS, please contact USACE, Chicago District, Project Manager, Mr. David Wethington, *by mail:* USACE, Chicago District, 231 S. LaSalle, Suite 1500, Chicago, Illinois 60604, or *by email: david.m.wethington@usace.army.mil.*

For media inquiries, please contact USACE, Chicago District, Public Affairs Officer, Ms. Lynne Whelan, *by mail:* USACE, Chicago District, 231 S. LaSalle, Suite 1500, Chicago, Illinois 60604, *by phone:* 312.846.5330 or *by email: lynne.e.whelan@usace.army.mil.*

SUPPLEMENTARY INFORMATION:

1. *Background.* In January 2014, USACE released the GLMRIS Report, which evaluated the potential range of alternatives to prevent ANS transfer between the GL and MR basins via the CAWS. In GLMRIS, USACE has interpreted the term ''prevent'' to mean the reduction of risk to the maximum extent possible, because it may not be technologically feasible to achieve an absolute solution.

The GLMRIS Report identified eight alternatives, six of which were structural alternatives. Three structural alternatives established an ANS control point near Brandon Road Lock and Dam in Joliet, Illinois. The GLMRIS Report identified the Brandon Road control point as a single location that can address upstream transfer of MR ANS through the CAWS.

Based on evaluations presented in the GLMRIS Report and in response to stakeholder input, USACE has been directed by the Assistant Secretary of the Army (Civil Works) to proceed with a formal evaluation of potential ANS controls to be applied near the Brandon Road Lock and Dam, located near Joliet, Illinois. The GLMRIS—Brandon Road effort will evaluate the range of options or technologies available to prevent MR ANS transfer through the CAWS into the GL Basin.

This effort will assess the potential of various ANS controls to address the one-way, upstream transfer of ANS through the approach channel and/or lock chamber at Brandon Road Lock and Dam, and seek to minimize any adverse impacts to waterway users or resources.

The Brandon Road Lock and Dam Historic District includes the Brandon Road Lock and Dam and was retroactively listed on the National Register of Historic Places on March 11, 2004.

GLMRIS will be conducted in accordance with NEPA and with the *Economic and Environmental Principles and Guidelines for Water and Related Land Resource Implementation Studies,* Water Resources Council, March 10, 1983.

2. *Scoping and Public Involvement.* USACE will accept comments related to GLMRIS—Brandon Road until January 30, 2015.

All forms of comments received during the scoping period will be weighted equally. Using input obtained during the scoping period, USACE will refine the scope of GLMRIS to focus on significant issues, as well as eliminate issues that are not significant from further detailed study.

Comments may be submitted in the following ways:

- GLMRIS project Web site: Use the web comment function found at *http://glmris.anl.gov/.*
- NEPA Scoping Meeting: USACE is hosting scoping meetings and asks those who wish to make oral comments in person to register on the GLMRIS project Web site at *http://glmris.anl.gov/* . Each meeting's on-line registration to speak will be closed at 10 a.m. central time the day of the meeting. Those who do not register to speak via the GLMRIS Web site may register at the meeting. Those registering through the Web site may be given a preference over those that register to make an oral comment at the meeting. Each individual wishing to make oral comments shall be given three (3) minutes, and a stenographer will document oral comments;
- Mail: Mail written comments to GLMRIS—Brandon Road Scoping, 231 S. LaSalle, Suite 1500, Chicago, Illinois 60604. Comments must be postmarked by January 30, 2015; and
- Hand Delivery: Comments may be hand-delivered to the Chicago District, USACE office located at 231 S. LaSalle, Suite 1500, Chicago, Illinois 60604 between 8:00 a.m. and 4:30 p.m. Comments must be received by January 30, 2015.

The public meetings will begin with a brief presentation regarding the study followed by an oral comment period. During the meeting, USACE will also collect written comments.

The additional public meeting is scheduled for 3:00 p.m. to 6:00 p.m. on Thursday, January 8, 2015, at the U.S. Army Corps of Engineers, New Orleans District Office, Assembly Room A located at 7400 Leake Avenue, New Orleans, Louisiana. Please see the GLMRIS project Web site at *http://glmris.anl.gov/* for directions, more information regarding the meeting and if you wish to make an oral comment.

Comments received during the scoping period will be posted on the GLMRIS project Web site and will become part of the EIS.

If you require assistance under the Americans with Disabilities Act, please contact Ms. Lynne Whelan via email at *lynne.e.whelan@usace.army.mil* or phone at (312) 846–5330 at least seven (7) working days prior to the meeting to request arrangements.

3. *Significant Issues.* Issues associated with the proposed study are likely to include, but will not be limited to impacts of ANS on current waterway uses and resources; impacts of potential ANS controls on current waterway uses and resources; and statutory and legal responsibilities relative to the lakes and waterways. Examples of waterway uses and resources that may be impacted by ANS include significant natural resources such as ecosystems and threatened and endangered species, commercial and recreational fisheries, and current recreational uses of the lakes and waterways. Examples of current waterway uses that may be impacted by potential ANS controls are commercial and recreational navigation, flood risk management and water supply and quality.

4. *Availability of the Draft Environmental Impact Statement.* Availability of the Draft EIS is contingent upon sufficient allocation of funding for the study. Draft EIS availability will be announced to the public in the **Federal Register** in compliance with 40 CFR 1506.9 and 1506.10.

5. *Authority.* This action is being undertaken pursuant to the Water Resources and Development Act of 2007, Section 3061, Pub. L. 110–114, 121 STAT. 1121, and the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321, *et seq.,* as amended.

Dated: December 29, 2014.

Susanne J. Davis,

Chief Planning Branch, Chicago District, Corps of Engineer.

[FR Doc. 2014–30859 Filed 1–2–15; 8:45 am]

BILLING CODE 3720–58–P

DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

Notice of Intent To Prepare a Draft Environment Impact Statement for the Proposed Lone Star Ore Body Development Project in Graham County, Arizona

AGENCY: U.S. Army Corps of Engineers, DoD.

ACTION: Notice of Intent.

SUMMARY: The U.S. Army Corps of Engineers, Los Angeles District (Corps) is examining the environmental consequences associated with Freeport-McMoRan Safford Inc.'s (FMSI) application for a Department of the Army permit under section 404 of the Clean Water Act for the proposed development of the mineral resources associated with the Lone Star ore body for the purpose of producing copper (the Lone Star Project). The proposed development would include the construction of mining facilities, including an open pit mine and attendant development rock stockpiles and heap leach facilities, which will allow continued mining at the Safford Mine Facility using conventional open-pit mining, heap leaching techniques, and solution extraction/electrowinning (SX/EW) processing, and utilizing as much of the existing Safford Mine Facility infrastructure and processing facilities as practicable. The construction of the proposed facilities would discharge fill materials into approximately 90.27 acres of waters of the United States (U.S.). The primary federal environmental concerns are the proposed discharges of fill material into waters of the U.S. and the potential for significant adverse environmental effects resulting from such activities. Therefore, to address these concerns in accordance with the National Environmental Policy Act (NEPA), the Corps is requiring preparation of an Environmental Impact Statement (EIS) prior to consideration of any permit action. The action must comply with the section 404(b)(1) Guidelines (40 CFR part 230) and not be contrary to the public interest to be granted a Corps permit. The Corps may ultimately make a determination to permit or deny the above project, or permit or deny modified versions of the above project.

FOR FURTHER INFORMATION CONTACT: Questions about the proposed action or the scoping of the Draft EIS can be answered by Michael Langley, Corps Senior Project Manager, at (602) 230–6953. Comments regarding scoping of the Draft EIS shall be addressed to: U.S. Army Corps of Engineers, Los Angeles District, Arizona Regulatory Branch, ATTN: SPL–2014–00065–MWL, 3636 North Central Avenue, Suite 900, Phoenix, Arizona 85012–1939, or *michael.w.langley@usace.army.mil.* Comment letters sent via electronic mail shall include the commenter's physical address and the project title ''Lone Star Ore Body Development Project'' shall be included in the subject line.

SUPPLEMENTARY INFORMATION:

1. *Project Site and Background Information:* The Lone Star copper ore body proposed for development is located within the boundary of the existing FMSI Safford Mine Facility, north of the City of Safford, Graham County, Arizona. FMSI owns and manages approximately 36,050 acres of privately held lands within and surrounding the Safford Mine Facility, which has been in operation for almost 7 years. The Safford Mine Facility is located within the Safford Mining District, and lands within the district have been used for mining activities by various entities for more than a century. FMSI (formerly Phelps Dodge Safford Inc.) first began development of an underground copper mining operation in the district in the 1960s, and later purchased other copper mining operations in the vicinity.

Between 1994 and 1996, FMSI initiated discussions to obtain authorization from the Bureau of Land Management (BLM) and the Corps to develop open pit copper mining operations in the district, and in May 1996, formally initiated NEPA review of these proposals through submission of a Mine Plan of Operations (MPO) to the BLM. NEPA review of the project, termed the Dos Pobres/San Juan Project (DP/SJ Project) after the ore bodies proposed for development, involved the publication of a Draft Environmental Impact Statement (DEIS) in September 1998, a Final Environmental Impact Statement (FEIS) in December 2003, and a BLM Record of Decision (ROD; No. 1793 [AZ–040] AZA–31133) in June 2004. As a component of the NEPA review, the Corps completed a section 404(b)(1) Alternatives Analysis in October 1997 and issued a section 404 Individual Permit (No. 964–0202–MB) for impacts to waters of the U.S. from development of the DP/SJ Project on September 27, 2004.

The Safford Mine Facility is currently an open-pit copper mining operation consisting of two pits: The Dos Pobres Pit and the San Juan Pit. The handling, processing, and support infrastructure for mineral resources recovered from the two pits is integrated into a single system consisting of a three-stage crushing system, two drum agglomerators, a single heap leach pad, SX/EW processing facility, and support facilities. Each of the pits has an associated development rock stockpile: For Dos Pobres immediately west of the pit, and for San Juan immediately south of the pit. A clay borrow pit is located in the southeastern portion of the Safford Mine Facility.

2. *Proposed Action:* FMSI has proposed the development of the mineral resources associated with the Lone Star ore body, located on FMSI's privately owned lands and proximate to the existing Safford Mine Facility. Development of the Lone Star copper ore body (the Lone Star Project) was considered as a Reasonably Foreseeable Future Action (RFFA) and was included in the NEPA review of cumulative impacts for the 2003 FEIS. The applicant has designed the proposed Lone Star Project to make use of as much of the existing Safford Mine Facility infrastructure as is practicable. Although the location of the open pit for the Lone Star Project is tied to the physical location of the mineral resource, the locations of the remaining project elements have been optimized to continue using existing infrastructure wherever possible. New elements anticipated as necessary for the development of the Lone Star Project include the open pit, a heap leach stockpile and associated solution management systems, development rock stockpiles, the ore haulage/conveyance route between the pit and crusher, additional power distribution infrastructure, an expanded clay borrow source, and additional stormwater management facilities.

The Lone Star Project proposes discharges to waters of the U.S. for the development and operation of the heap leach stockpile, the development rock stockpiles, the haul road, and for the expansion of the clay borrow pit. Continued use of the existing facilities including the existing crushing facilities, SX/EW facilities, the majority of the existing support infrastructure for the current leach pad, and the mine access road are not anticipated to require the discharge of fill to waters of the U.S. Construction and operation of the remaining Lone Star Project elements including the open pit and power distribution infrastructure are not anticipated to require the discharge of additional fill to waters of the U.S.

3. *Issues:* There are several potential environmental issues that will be addressed in the Draft EIS. Additional issues may be identified during the

scoping process. Issues initially identified for evaluation in the Draft EIS include:

a. Visual/aesthetics impacts from landform alterations,

b. air quality impacts from construction and operation of the facility,

c. cultural resources (prehistoric and historic resources),

d. surface water hydrology and quality,

e. groundwater hydrology and quality,

f. potential land use incompatibility,

g. noise impacts from construction and operation,

h. socioeconomic effects,

i. soils and geology resources,

j. transportation network impacts,

k. environmental justice

l. biological impacts

m. impacts to waters of the U.S., and

n. cumulative impacts.

4. *Alternatives:* Alternatives to the proposed action are being developed for evaluation in the EIS. The Draft EIS will include a co-equal level of analysis of the No-Action and project alternatives considered. Alternatives will be further formulated and developed during the scoping process.

5. *Scoping:* The Corps will conduct a public scoping meeting in an open house format for the proposed Lone Star Ore Body Development Project Draft EIS to receive public comment and to assess public concerns regarding the appropriate scope and preparation of the Draft EIS. Participation in the public meeting by federal, state, local, and tribal agencies and other interested organizations is encouraged. The meeting will be held on February 4, 2015, 6:00 p.m. to 9:00 p.m. (Arizona Time Zone) at the Manor House Convention Center, 415 E. U.S. Highway 70, Safford, Arizona 85546. Representatives from the Corps and Freeport-McMoRan Safford Inc. will provide a presentation for attendees at 7:00 p.m. Comments on the proposed action, alternatives, or any additional concerns should be submitted in writing. Written and electronic comment letters will be accepted through February 20, 2015.

The Corps also anticipates formally consulting with the U.S. Fish and Wildlife Service under section 7 of the Endangered Species Act and with the State Historic Preservation Officer and appropriate Tribal Historic Preservation Officers under section 106 of the National Historic Preservation Act.

6. *Availability of the Draft EIS:* The Draft EIS is expected to be published and circulated in the fourth quarter of 2015, and a public meeting will be held after its publication.

Dated: December 12, 2014.

David J. Castanon,

Division Chief, Los Angeles District, U.S. Army Corps of Engineers.

[FR Doc. 2014–30864 Filed 1–2–15; 8:45 am]

BILLING CODE 3720–58–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 719–033]

Trinity Conservancy, Inc.; Notice of Application for Amendment of License and Soliciting Comments, Motions To Intervene, and Protests

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Amendment to modify approved resident fish habitat and project tailrace plan and effectiveness monitoring plan

b. *Project No:* 719–033

c. *Date Filed:* July 11, 2014

d. *Applicant:* Trinity Conservancy, Inc.

e. *Name of Project:* Trinity Hydroelectric Project

f. *Location:* The Trinity Project is located on Phelps and James Creeks, tributaries of the Chiwawa River in the Columbia River Basin, near the city of Leavenworth, in Chelan County, Washington.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r)

h. *Applicant Contact:* Reid L. Brown, President, Trinity Conservancy, Inc., 3139 E. Lake Sammamish SE., Sammamish, WA 98075, (425) 392–9214.

i. *FERC Contact:* B. Peter Yarrington, telephone (202) 502–6129 or email *peter.yarrington@ferc.gov.*

j. Deadline for filing comments, motions to intervene, protests, and recommendations is 30 days from the issuance date of this notice by the Commission. The Commission strongly encourages electronic filing. Please file motions to intervene, protests, or comments using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. Please include the project number (P–719–033) on any comments, motions to intervene, protests, or recommendations filed.

k. *Description of Request:* Trinity Conservancy, Inc. (license) requests amendment of the Trinity Project's resident fish habitat and project tailrace plan and effectiveness monitoring plan, which was approved in a Commission order issued April 22, 2008.[1] The Trinity Project uses water from Phelps Creek, then returns it via the project tailrace to the Chiwawa River, several hundred yards above where the historic natural channel of Phelps Creek meets the Chiwawa River. The April 22, 2008 order approved two alternatives for the tailrace plan, both involving routing of water through a short section of pipe to a new 858-foot open tailrace channel that would follow natural contours to a confluence with Phelps Creek above where it meets the Chiwawa River. The licensee now requests, based on consultation with resource agencies, an amendment of the tailrace plan which would utilize 680 feet of primarily buried pipe for the first section of the new tailrace, leading to a shorter open reach. The change would reduce water loss and provide enhanced salmonid habitat in the area where the tailrace would join Phelps Creek. The licensee also requests approval of minor modifications to the effectiveness monitoring plan.

l. *Locations of the Application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street NE., Room 2A, Washington, DC 20426, or by calling (202) 502–8371. This filing may also be viewed on the Commission's Web site at *http://www.ferc.gov/docs-filing/elibrary.asp.* Enter the docket number excluding the last three digits in the docket number field to access the document. You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, call 1–866–208–3676 or email *FERCOnlineSupport@ferc.gov,* for TTY, call (202) 502–8659. A copy is also available for inspection and

[1] Order Modifying and Approving Resident Fish Habitat and Project Tailrace Plan and Effectiveness Monitoring Plan per Article 401, Appendix A Condition 1, and Appendix B Condition 6 (123 FERC ¶ 62,062).

reproduction at the address in item (h) above.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *Comments, Protests, or Motions to Intervene:* Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. *Filing and Service of Responsive Documents:* Any filing must (1) bear in all capital letters the title ''COMMENTS,'' ''PROTEST'', or ''MOTION TO INTERVENE'' as applicable; (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, motions to intervene, or protests must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). All comments, motions to intervene, or protests should relate to project works which are the subject of the proposed amendment. Agencies may obtain copies of the application directly from the applicant. A copy of any protest or motion to intervene must be served upon each representative of the applicant specified in the particular application. If an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency. A copy of all other filings in reference to this application must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b) and 385.2010.

Dated: December 24, 2014.

Kimberly D. Bose,

Secretary.

[FR Doc. 2014–30797 Filed 1–2–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC15–56–000.
Applicants: Indianapolis Power & Light Company, CDP Infrastructure Fund GP.
Description: Application for Authorization Under Section 203 of the Federal Power Act of Indianapolis Power & Light Company and CDP Infrastructure Fund GP.
Filed Date: 12/23/14.
Accession Number: 20141223–5160.
Comments Due: 5 p.m. ET 1/13/15.

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG15–33–000.
Applicants: Alterna Springerville LLC.
Description: Self-Certification of EWG status of Alterna Springerville LLC.
Filed Date: 12/23/14.
Accession Number: 20141223–5287.
Comments Due: 5 p.m. ET 1/13/15.

Docket Numbers: EG15–34–000.
Applicants: LDVF1 TEP LLC.
Description: Self-Certification of EWG Status of LDVF1 TEP LLC.
Filed Date: 12/24/14.
Accession Number: 20141224–5075.
Comments Due: 5 p.m. ET 1/14/15.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10–1585–007; ER10–1594–007; ER10–1617–007; ER10–1619–004; ER10–1620–005; ER10–1625–005; ER12–60–009; ER10–1632–009; ER10–1628–007.
Applicants: Alabama Electric Marketing, LLC, California Electric Marketing, LLC, New Mexico Electric Marketing, LLC, Tenaska Alabama Partners, L.P., Tenaska Alabama II Partners, L.P., Tenaska Georgia Partners, L.P., Tenaska Power Management, LLC, Texas Electric Marketing, LLC, Tenaska Power Services Co.
Description: Updated Market Power Analysis of the Tenaska MBR Sellers under ER10–1585, et al.
Filed Date: 12/22/14.
Accession Number: 20141222–5397.
Comments Due: 5 p.m. ET 2/20/15.

Docket Numbers: ER10–1781–002.
Applicants: Northern Indiana Public Service Company.
Description: Triennial Update of Northern Indiana Public Service Company.
Filed Date: 12/22/14.
Accession Number: 20141222–5394.
Comments Due: 5 p.m. ET 2/20/15.

Docket Numbers: ER10–3145–006; ER10–3147–006; ER13–442–003; ER10–3116–006; ER10–3120–006; ER11–2036–006; ER13–1544–003; ER10–3128–006; ER10–1800–006; ER10–3136–006; ER11–2701–008; ER10–1728–006; ER10–2491–006.
Applicants: AES Alamitos, LLC, AES Armenia Mountain Wind, LLC, AES Beaver Valley, LLC, AES Energy Storage, LLC, AES Huntington Beach, L.L.C., AES Laurel Mountain, LLC, AES ES Tait, LLC, AES Redondo Beach, L.L.C., Indianapolis Power & Light Company, Mountain View Power Partners, LLC, Mountain View Power Partners IV, LLC, The Dayton Power and Light Company, DPL Energy, LLC.
Description: Triennial Market Power Analysis for the Central Region of AES MBR Affiliates under ER10–3145, *et al.*
Filed Date: 12/22/14.
Accession Number: 20141222–5395.
Comments Due: 5 p.m. ET 2/20/15.

Docket Numbers: ER14–1955–002.
Applicants: RTO Energy Trading, LLC.
Description: Notice of Change in Status of RTO Energy Trading, LLC.
Filed Date: 12/22/14.
Accession Number: 20141222–5400.
Comments Due: 5 p.m. ET 1/12/15.

Docket Numbers: ER14–2295–001.
Applicants: Waterbury Generation, LLC.
Description: Compliance filing per 35: Triennial Review to be effective 2/23/2015.
Filed Date: 12/23/14.
Accession Number: 20141223–5284.
Comments Due: 5 p.m. ET 1/13/15.

Docket Numbers: ER14–2864–001.
Applicants: PJM Interconnection, L.L.C.
Description: Tariff Amendment per 35.17(b): Joint Response of PJM and BG&E to Deficiency Notice and Amendment in ER14–2864 to be effective 11/12/2014.
Filed Date: 12/23/14.
Accession Number: 20141223–5302.
Comments Due: 5 p.m. ET 1/13/15.

Docket Numbers: ER14–2867–001.
Applicants: Baltimore Gas and Electric Company, PJM Interconnection, L.L.C.

Description: Tariff Amendment per 35.17(b): Joint Reponse of PJM and BG&E to Deficiency Notice and Amendment in ER14–2867 to be effective 11/12/2014.
Filed Date: 12/23/14.
Accession Number: 20141223–5309.
Comments Due: 5 p.m. ET 1/13/15.
Docket Numbers: ER15–21–002.
Applicants: Southwest Power Pool, Inc.
Description: Compliance filing per 35: Attach AG Section 4 Compliance Revisions—Physical Withholding Review/Reporting to be effective 3/1/2014.
Filed Date: 12/23/14.
Accession Number: 20141223–5176.
Comments Due: 5 p.m. ET 1/13/15.
Docket Numbers: ER15–261–001.
Applicants: Puget Sound Energy, Inc.
Description: Tariff Amendment per 35.17(b): Tanner NITSA SA No. 543 Amendment 1 to be effective 10/1/2011.
Filed Date: 12/23/14.
Accession Number: 20141223–5154.
Comments Due: 5 p.m. ET 1/13/15.
Docket Numbers: ER15–707–000.
Applicants: Consolidated Edison Company of New York, Inc.
Description: § 205(d) rate filing per 35.13(a)(1): PASNY Tariff RY2 12–2014 to be effective 1/1/2015.
Filed Date: 12/23/14.
Accession Number: 20141223–5110.
Comments Due: 5 p.m. ET 1/13/15.
Docket Numbers: ER15–708–000.
Applicants: Consolidated Edison Company of New York, Inc.
Description: § 205(d) rate filing per 35.13(a)(1): Con Edison WDS 12–2014 to be effective 1/1/2015.
Filed Date: 12/23/14.
Accession Number: 20141223–5126.
Comments Due: 5 p.m. ET 1/13/15.
Docket Numbers: ER15–709–000.
Applicants: Midcontinent Independent System Operator, Inc., MidAmerican Energy Company.
Description: § 205(d) rate filing per 35.13(a)(2)(iii): 2014–12–23_SA 2709 MidAmerican-HCPD WDS Agreement to be effective 1/10/2015.
Filed Date: 12/23/14.
Accession Number: 20141223–5157.
Comments Due: 5 p.m. ET 1/13/15.
Docket Numbers: ER15–710–000.
Applicants: Arizona Public Service Company.
Description: § 205(d) rate filing per 35.13(a)(2)(iii): Service Agreement No. 341—NITS with ED3 to be effective 1/1/2015.
Filed Date: 12/23/14.
Accession Number: 20141223–5163.
Comments Due: 5 p.m. ET 1/13/15.
Docket Numbers: ER15–711–000.
Applicants: PacifiCorp.
Description: § 205(d) rate filing per 35.13(a)(2)(iii): West Valley A&R EIM Participation Construction Agmt Rev 1 to be effective 12/24/2014.
Filed Date: 12/23/14.
Accession Number: 20141223–5177.
Comments Due: 5 p.m. ET 1/13/15.
Docket Numbers: ER15–712–000.
Applicants: PJM Interconnection, L.L.C.
Description: Tariff Withdrawal per 35.15: Notice of Cancellation of Service Agreement No. 3991 (Queue Y3–062) to be effective 2/15/2015.
Filed Date: 12/23/14.
Accession Number: 20141223–5178.
Comments Due: 5 p.m. ET 1/13/15.
Docket Numbers: ER15–713–000.
Applicants: Southern California Edison Company.
Description: § 205(d) rate filing per 35.13(a)(2)(iii): Amended & Restated Firm Transmission Service Agmt with MSR to be effective 1/1/2015.
Filed Date: 12/23/14.
Accession Number: 20141223–5207.
Comments Due: 5 p.m. ET 1/13/15.
Docket Numbers: ER15–714–000.
Applicants: Southwest Power Pool, Inc.
Description: § 205(d) rate filing per 35.13(a)(2)(iii): Revisions to Attach AF Section 3—Intra-Day Mitigation Measures Clarifications to be effective 2/21/2015.
Filed Date: 12/23/14.
Accession Number: 20141223–5210.
Comments Due: 5 p.m. ET 1/13/15.
Docket Numbers: ER15–715–000.
Applicants: The Connecticut Light and Power Company.
Description: § 205(d) rate filing per 35.13(a)(2)(iii): CPV Towantic, LLC. Engineering, Design, Permitting, Siting Agreement to be effective 12/5/2014.
Filed Date: 12/23/14.
Accession Number: 20141223–5221.
Comments Due: 5 p.m. ET 1/13/15.
Docket Numbers: ER15–716–000.
Applicants: ISO New England Inc., New England Power Pool Participants Committee.
Description: § 205(d) rate filing per 35.13(a)(2)(iii): Chges. to Allow On-Peark Demand Resources to Qualify as Ren. Tech. Res. to be effective 2/21/2015.
Filed Date: 12/23/14.
Accession Number: 20141223–5222.
Comments Due: 5 p.m. ET 1/13/15.
Docket Numbers: ER15–717–000.
Applicants: ANP Blackstone Energy Company, LLC.
Description: § 205(d) rate filing per 35.13(a)(2)(iii): Triennial Review to be effective 2/23/2015.
Filed Date: 12/23/14.
Accession Number: 20141223–5254.
Comments Due: 5 p.m. ET 1/13/15.
Docket Numbers: ER15–718–000.
Applicants: West Valley Power, LLC.
Description: § 205(d) rate filing per 35.13(a)(2)(iii): Section 205 filing to be effective 12/24/2014.
Filed Date: 12/23/14.
Accession Number: 20141223–5253.
Comments Due: 5 p.m. ET 1/13/15.
Docket Numbers: ER15–719–000.
Applicants: ANP Bellingham Energy Company, LLC.
Description: § 205(d) rate filing per 35.13(a)(2)(iii): Triennial Review to be effective 2/23/2015.
Filed Date: 12/23/14.
Accession Number: 20141223–5255.
Comments Due: 5 p.m. ET 1/13/15.
Docket Numbers: ER15–720–000.
Applicants: Calumet Energy Team, LLC.
Description: § 205(d) rate filing per 35.13(a)(2)(iii): Triennial Review to be effective 2/23/2015.
Filed Date: 12/23/14.
Accession Number: 20141223–5256.
Comments Due: 5 p.m. ET 1/13/15.
Docket Numbers: ER15–721–000.
Applicants: FirstLight Hydro Generating Company.
Description: § 205(d) rate filing per 35.13(a)(2)(iii): Triennial Review to be effective 2/23/2015.
Filed Date: 12/23/14.
Accession Number: 20141223–5257.
Comments Due: 5 p.m. ET 1/13/15.
Docket Numbers: ER15–722–000.
Applicants: FirstLight Power Resources Management, LLC.
Description: § 205(d) rate filing per 35.13(a)(2)(iii): Triennial Review to be effective 2/23/2015.
Filed Date: 12/23/14.
Accession Number: 20141223–5259.
Comments Due: 5 p.m. ET 1/13/15.
Docket Numbers: ER15–723–000.
Applicants: GDF SUEZ Energy Marketing NA, Inc.
Description: § 205(d) rate filing per 35.13(a)(2)(iii): Triennial Review to be effective 2/23/2015.
Filed Date: 12/23/14.
Accession Number: 20141223–5272.
Comments Due: 5 p.m. ET 1/13/15.
Docket Numbers: ER15–724–000.
Applicants: Hopewell Cogeneration Limited Partnership.
Description: § 205(d) rate filing per 35.13(a)(2)(iii): Triennial Review to be effective 2/23/2015.
Filed Date: 12/23/14.
Accession Number: 20141223–5276.
Comments Due: 5 p.m. ET 1/13/15.
Docket Numbers: ER15–725–000.
Applicants: Mt. Tom Generating Company, LLC.

Description: § 205(d) rate filing per 35.13(a)(2)(iii): Triennial Review to be effective 2/23/2015.
Filed Date: 12/23/14.
Accession Number: 20141223–5277.
Comments Due: 5 p.m. ET 1/13/15.

Docket Numbers: ER15–726–000.
Applicants: Northeastern Power Company.
Description: § 205(d) rate filing per 35.13(a)(2)(iii): Triennial Review to be effective 2/23/2015.
Filed Date: 12/23/14.
Accession Number: 20141223–5278.
Comments Due: 5 p.m. ET 1/13/15.

Docket Numbers: ER15–727–000.
Applicants: Pinetree Power-Tamworth, Inc.
Description: § 205(d) rate filing per 35.13(a)(2)(iii): Triennial Review to be effective 2/23/2015.
Filed Date: 12/23/14.
Accession Number: 20141223–5279.
Comments Due: 5 p.m. ET 1/13/15.

Docket Numbers: ER15–728–000.
Applicants: Pleasants Energy, LLC.
Description: § 205(d) rate filing per 35.13(a)(2)(iii): Triennial Review to be effective 2/23/2015.
Filed Date: 12/23/14.
Accession Number: 20141223–5280.
Comments Due: 5 p.m. ET 1/13/15.

Docket Numbers: ER15–729–000.
Applicants: Troy Energy, LLC.
Description: Compliance filing per 35: Triennial Review to be effective 2/23/2015.
Filed Date: 12/23/14.
Accession Number: 20141223–5281.
Comments Due: 5 p.m. ET 1/13/15.

Docket Numbers: ER15–730–000.
Applicants: Midcontinent Independent System Operator, Inc.
Description: § 205(d) rate filing per 35.13(a)(2)(iii): 2014–12–23_Attachment L Revisions to be effective 2/22/2015.
Filed Date: 12/23/14.
Accession Number: 20141223–5307.
Comments Due: 5 p.m. ET 1/13/15.

Docket Numbers: ER15–731–000.
Applicants: Hampshire Council of Governments.
Description: Initial rate filing per 35.12 Hampshire Council of Governments, FERC Tariff Filing to be effective 1/1/2015.
Filed Date: 12/23/14.
Accession Number: 20141223–5308.
Comments Due: 5 p.m. ET 1/13/15.

Docket Numbers: ER15–732–000.
Applicants: PJM Interconnection, L.L.C., The Potomac Edison Company.
Description: § 205(d) rate filing per 35.13(a)(2)(iii): Potomac Edison submits revisions to OATT Att H–11A and SA No. 4032 (Thurmont) to be effective 2/1/2015.
Filed Date: 12/23/14.
Accession Number: 20141223–5310.
Comments Due: 5 p.m. ET 1/13/15.

Docket Numbers: ER15–733–000.
Applicants: PJM Interconnection, L.L.C., The Potomac Edison Company.
Description: § 205(d) rate filing per 35.13(a)(2)(iii): Potomac Edison submits revisions to OATT Att H–11A and SA No. 4032 (Thurmont) to be effective 2/1/2015.
Filed Date: 12/23/14.
Accession Number: 20141223–5311.
Comments Due: 5 p.m. ET 1/13/15.

Docket Numbers: ER15–734–000.
Applicants: Wolverine Power Supply Cooperative, Inc.
Description: § 205(d) rate filing per 35.13(a)(2)(iii): Wolverine MBR Filing to be effective 12/24/2014.
Filed Date: 12/24/14.
Accession Number: 20141224–5000.
Comments Due: 5 p.m. ET 1/14/15.

Docket Numbers: ER15–735–000.
Applicants: Pacific Gas and Electric Company.
Description: Notices of Termination of Facilities Charge Agreements between Pacific Gas and Electric Company and the City and County of San Francisco of Pacific Gas and Electric Company.
Filed Date: 12/23/14.
Accession Number: 20141223–5335.
Comments Due: 5 p.m. ET 1/13/15.

Docket Numbers: ER15–736–000.
Applicants: Brookfield Energy Marketing, LP.
Description: Request for Waiver of Brookfield Energy Marketing, LP of Brookfield Energy Marketing, LP under ER15–736.
Filed Date: 12/22/14.
Accession Number: 20141222–5401.
Comments Due: 5 p.m. ET 1/5/15.

Docket Numbers: ER15–737–000.
Applicants: Orlando CoGen Limited, L.P.
Description: Tariff Withdrawal per 35.15: Cancellation of Tariff to be effective 12/25/2014.
Filed Date: 12/24/14.
Accession Number: 20141224–5071.
Comments Due: 5 p.m. ET 1/14/15.

Docket Numbers: ER15–738–000.
Applicants: PJM Interconnection, L.L.C.
Description: Compliance filing per 35: Waiver Request to be effective N/A.
Filed Date: 12/24/14.
Accession Number: 20141224–5074.
Comments Due: 5 p.m. ET 1/14/15.

Docket Numbers: ER15–739–000.
Applicants: PJM Interconnection, L.L.C.
Description: § 205(d) rate filing per 35.13(a)(2)(iii): 2015/2016 Reliability to be effective 2/23/2015.
Filed Date: 12/24/14.
Accession Number: 20141224–5076.
Comments Due: 5 p.m. ET 1/14/15.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: December 24, 2014.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2014–30822 Filed 1–2–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Docket Numbers: RP15–279–000.
Applicants: Texas Gas Transmission, LLC.
Description: § 4(d) rate filing per 154.204: Neg Rate Agmt Filing (AEP 34154) to be effective 1/1/2015.
Filed Date: 12/29/14.
Accession Number: 20141229–5025.
Comments Due: 5 p.m. ET 1/12/15.

Docket Numbers: RP15–280–000.
Applicants: Gulf South Pipeline Company, LP.
Description: § 4(d) rate filing per 154.204: Cap Rel Neg Rate Agmt (EnCana 37663 to BP 43578) to be effective 1/1/2015.
Filed Date: 12/29/14.
Accession Number: 20141229–5026.
Comments Due: 5 p.m. ET 1/12/15.

Docket Numbers: RP15–281–000.
Applicants: Gulf South Pipeline Company, LP.
Description: § 4(d) rate filing per 154.204: Cap Rel Neg Rate Agmt (JW 34690 to QWest 43634) to be effective 1/1/2015.

Filed Date: 12/29/14.
Accession Number: 20141229–5027.
Comments Due: 5 p.m. ET 1/12/15.

Docket Numbers: RP15–282–000.
Applicants: Gulf South Pipeline Company, LP.
Description: § 4(d) rate filing per 154.204: Amendment to Neg Rate Agmt (QEP 37657–126) to be effective 12/20/2014.
Filed Date: 12/29/14.
Accession Number: 20141229–5028.
Comments Due: 5 p.m. ET 1/12/15.

Docket Numbers: RP15–283–000.
Applicants: Ozark Gas Transmission, L.L.C.
Description: § 4(d) rate filing per 154.204: Statements of Negotiated Rates Tariff Volume to be effective 2/1/2015.
Filed Date: 12/29/14.
Accession Number: 20141229–5029.
Comments Due: 5 p.m. ET 1/12/15.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified date(s). Protests may be considered, but intervention is necessary to become a party to the proceeding.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: December 29, 2014.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2014–30823 Filed 1–2–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG15–35–000.
Applicants: Los Vientos Windpower III, LLC.
Description: Self-Certification as an Exempt Wholesale Generator of Los Vientos Windpower III, LLC.
Filed Date: 12/26/14.
Accession Number: 20141226–5024.
Comments Due: 5 p.m. ET 1/16/15.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10–2211–004.
Applicants: Vandolah Power Company, L.L.C.
Description: Triennial Compliance Filing of Vandolah Power Company, L.L.C.
Filed Date: 12/24/14.
Accession Number: 20141224–5130.
Comments Due: 5 p.m. ET 2/24/15.

Docket Numbers: ER12–2178–011; ER14–1524–003; ER13–1536–005; ER12–2528–010; ER11–2056–016; ER11–2016–017; ER11–2014–019; ER11–2013–019; ER11–2011–018; ER11–2010–019; ER11–2009–018; ER11–2007–017; ER11–2005–019; ER10–3027–003; ER10–3025–005; ER10–2192–022; ER10–2184–022; ER10–2180–022; ER10–2178–022; ER10–2172–022; ER10–1143–018; ER10–1081–019; ER10–1080–018; ER10–1078–018; ER10–1048–019; ER10–1020–018.
Applicants: AV Solar Ranch 1, LLC, Wind Capital Holdings, LLC, Tuana Springs Energy, LLC, PECO Energy Company, Integrys Energy Services of New York, Inc., Integrys Energy Services, Inc., High Mesa Energy, LLC, Harvest WindFarm, LLC, Handsome Lake Energy, LLC, Exelon Wyman, LLC, Exelon Wind 4, LLC, Exelon New Boston, LLC, Exelon Generation Company, LLC, Exelon Framingham, LLC, CR Clearing, LLC, Cow Branch Wind Power, LLC, Constellation Power Source Generation, LLC, Constellation NewEnergy, Inc., Constellation Mystic Power, LLC, Constellation Energy Commodities Group Maine, LLC, Commonwealth Edison Company, CER Generation, LLC, Cassia Gulch Wind Park, LLC, Baltimore Gas & Electric Company, Exelon West Medway, LLC, Michigan Wind 1, LLC.
Description: Updated Market Power Analysis for the Southeast Region of the Exelon MBR Entities.
Filed Date: 12/23/14.
Accession Number: 20141223–5361.
Comments Due: 5 p.m. ET 2/23/15.

Docket Numbers: ER12–303–002.
Applicants: Virginia Electric and Power Company, Dominion Energy Marketing, Inc., Dominion Nuclear Connecticut, Inc., Dominion Energy Manchester Street, Inc., Dominion Retail, Inc., Fairless Energy, LLC, NedPower Mt. Storm LLC, Fowler Ridge Wind Farm LLC, Dominion Bridgeport Fuel Cell, LLC.
Description: Change in Status of Nuclear Waiver of Virginia Electric and Power Company, et al.
Filed Date: 12/23/14.
Accession Number: 20141223–5364.
Comments Due: 5 p.m. ET 1/13/15.

Docket Numbers: ER12–458–007; ER13–1489–005; ER13–1488–003.
Applicants: Quantum Choctaw Power, LLC, Quantum Lake Power, LP, Quantum Pasco Power, LP.
Description: Updated Market Power Analysis of the Quantum Entities.
Filed Date: 12/23/14.
Accession Number: 20141223–5356.
Comments Due: 5 p.m. ET 2/23/15.

Docket Numbers: ER14–697–004.
Applicants: Entergy Services, Inc.
Description: Tariff Amendment per 35.17(b): Correct effective date under ER14–697 to be effective 12/31/9998.
Filed Date: 12/29/14.
Accession Number: 20141229–5016.
Comments Due: 5 p.m. ET 1/20/15.

Docket Numbers: ER14–700–004.
Applicants: Entergy Services, Inc.
Description: Tariff Amendment per 35.17(b): Change effective date under ER14–700 to be effective 12/31/9998.
Filed Date: 12/29/14.
Accession Number: 20141229–5017.
Comments Due: 5 p.m. ET 1/20/15.

Docket Numbers: ER15–740–000.
Applicants: Southern California Edison Company.
Description: § 205(d) rate filing per 35.13(a)(2)(iii): GIA & Distribution Service Agmt with FPL Energy Cabazon Wind, LLC to be effective 12/21/2014.
Filed Date: 12/24/14.
Accession Number: 20141224–5093.
Comments Due: 5 p.m. ET 1/14/15.

Docket Numbers: ER15–741–000.
Applicants: PacifiCorp.
Description: § 205(d) rate filing per 35.13(a)(2)(iii): PacifiCorp Energy Network Operating Agreement to be effective 2/22/201.
Filed Date: 12/24/14.
Accession Number: 20141224–5101.
Comments Due: 5 p.m. ET 1/14/15.

Docket Numbers: ER15–742–000.
Applicants: Chief Energy Power LLC.
Description: Initial rate filing per 35.12 Chief Energy Power Market-Based Rate Tariff to be effective 12/24/2014.
Filed Date: 12/24/14.
Accession Number: 20141224–5108.
Comments Due: 5 p.m. ET 1/14/15.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date.

Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: December 29, 2014.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2014–30825 Filed 1–2–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #2

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10–1257–004; ER10–1258–004.

Applicants: Wabash Valley Power Association, Inc., Wabash Valley Energy Marketing, Inc.

Description: 2014 Updated Power Market Analysis of Wabash Valley Power Association, Inc., et al.

Filed Date: 12/29/14.

Accession Number: 20141229–5109.

Comments Due: 5 p.m. ET 2/27/15.

Docket Numbers: ER10–2331–028; ER14–630–005; ER14–1468–005; ER13–1351–003; ER10–2330–027; ER10–2326–027; ER10–2319–021; ER10–2317–021.

Applicants: J.P. Morgan Ventures Energy Corporation, AlphaGen Power LLC, BE Alabama LLC, BE CA LLC, KMC Thermo, LLC, Florida Power Development LLC, Utility Contract Funding, L.L.C., Cedar Brakes I, L.L.C.

Description: Notice of Non-Material Change in Status of J.P. Morgan Ventures Energy Corporation, et al.

Filed Date: 12/29/14.

Accession Number: 20141229–5099.

Comments Due: 5 p.m. ET 1/20/15.

Docket Numbers: ER10–2881–017; ER14–787–005; ER14–661–004; ER13–1541–011; ER13–1101–012; ER10–2886–017; ER10–2885–017; ER10–2884–017; ER10–2883–017; ER10–2882–017; ER10–2663–017; ER10–2641–017.

Applicants: Alabama Power Company, Southern Power Company, Mississippi Power Company, Georgia Power Company, Gulf Power Company, Oleander Power Project, Limited Partnership, Southern Company—Florida LLC, Southern Turner Cimarron I, LLC, Spectrum Nevada Solar, LLC, Campo Verde Solar, LLC, Macho Springs Solar, LLC, SG2 Imperial Valley LLC.

Description: Notification of Non-Material of Change in Status of Alabama Power Company, et al.

Filed Date: 12/29/14.

Accession Number: 20141229–5050.

Comments Due: 5 p.m. ET 1/20/15.

Docket Numbers: ER14–2858–002.

Applicants: Origin Wind Energy, LLC.

Description: Notice of Non-Material Change in Status of Origin Wind Energy, LLC.

Filed Date: 12/29/14.

Accession Number: 20141229–5071.

Comments Due: 5 p.m. ET 1/20/15.

Docket Numbers: ER15–692–000.

Applicants: Entergy Louisiana, LLC.

Description: § 205(d) rate filing per 35.13(a)(2)(iii): Settlement and Updated Reimbursement Agreement Under ER13–770 to be effective 12/19/2013.

Filed Date: 12/22/14.

Accession Number: 20141222–5194.

Comments Due: 5 p.m. ET 1/12/15.

Docket Numbers: ER15–743–000.

Applicants: Appalachian Power Company.

Description: § 205(d) rate filing per 35.13(a)(2)(iii): OATT—Revise Attachments K & L, TCC &TNC Rate Update to be effective 12/29/2014.

Filed Date: 12/29/14.

Accession Number: 20141229–5074.

Comments Due: 5 p.m. ET 1/20/15.

Docket Numbers: ER15–744–000.

Applicants: Trans Bay Cable LLC.

Description: § 205(d) rate filing per 35.13(a)(2)(iii): TRBAA Filing to be effective 1/1/2015.

Filed Date: 12/29/14.

Accession Number: 20141229–5111.

Comments Due: 5 p.m. ET 1/20/15.

Docket Numbers: ER15–745–000.

Applicants: AM Commodities Corporation.

Description: Initial rate filing per 35.12 a.m. Commodities Corporation—Baseline Tariff Filing to be effective 2/27/2015.

Filed Date: 12/29/14.

Accession Number: 20141229–5118.

Comments Due: 5 p.m. ET 1/20/15.

Docket Numbers: ER15–746–000.

Applicants: RC Cape May Holdings, LLC.

Description: § 205(d) rate filing per 35.13(a)(2)(iii): Second Revised Rate Schedule FERC No. 2 to be effective 12/31/9998.

Filed Date: 12/29/14.

Accession Number: 20141229–5126.

Comments Due: 5 p.m. ET 1/20/15.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: December 29, 2014.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2014–30826 Filed 1–2–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL15–34–000]

Fowler Ridge Wind Farm LLC, Fowler Ridge II Wind Farm LLC, Fowler Ridge III Wind Farm LLC, Meadow Lake Wind Farm, LLC, Meadow Lake Wind Farm II LLC, Meadow Lake Wind Farm III LLC, Meadow Lake Wind Farm IV LLC v. Northern Indiana Public Service Company; Notice of Complaint

Take notice that on December 23, 2014, pursuant to section 206 of the Federal Power Act, 16 U.S.C. 824(e) and Rule 206 of the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure, 18 CFR 385.206, Fowler Ridge Wind Farm LLC, Fowler Ridge II Wind Farm LLC, Fowler Ridge III Wind Farm LLC, Meadow Lake Wind Farm, LLC, Meadow Lake Wind Farm II LLC, Meadow Lake Wind Farm III LLC, and Meadow Lake Wind Farm IV LLC (Complainants), filed a formal complaint against Northern Indiana Public Service Company (Respondent), alleging that the provisions contained in the 138 kV Transmission Upgrade Agreement between the Complainants and the Respondent is unjust, unreasonable and unduly discriminatory or preferential, as more fully explained in the complaint.

The Complainant certifies that copies of the complaint were served on the contacts for 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 January 12, 2015.

Dated: December 29, 2014.

Kimberly D. Bose,

Secretary.

[FR Doc. 2014–30846 Filed 1–2–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 405–111]

Exelon Generation Company, LLC; Notice of Availability of Environmental Assessment

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission) regulations, 18 CFR part 380 (Order No. 486, 52 FR 47897), the Office of Energy Projects has reviewed an application submitted by Exelon Generation Company, LLC (licensee) to allow Old Dominion Electric Cooperative (permittee) the use of the Conowingo Project lands and waters for the withdrawal and discharge of water. The project is located on the Susquehanna River near Lancaster, Pennsylvania, in Hartford and Cecil Counties, Maryland and in York and Lancaster Counties, Pennsylvania.

An environmental assessment (EA) has been prepared as part of staff's review of the proposal. In the application, the licensee proposes to allow ODEC to withdraw up to 8.7 million gallons per day (mgd) and to discharge return water not to exceed 0.8 mgd, resulting in a total maximum consumptive use of 7.9 mgd of water in order to support a 1,000 megawatt electric power generating plant that would be known as the Wildcat Point Generation Facility, located in Cecil County, Maryland. This EA contains Commission staff's analysis of the probable environmental impacts of the proposed withdraw and discharge of water and concludes that approval of the proposal would not constitute a major federal action significantly affecting the quality of the human environment.

The EA is available for electronic review and reproduction at the Commission's Public Reference Room, located at 888 First Street NE., Room 2A, Washington, DC 20426. The EA may also be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number (P–405) in the docket number field to access the document. For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3372 or for TTY, (202) 502–8659.

Any comments on the EA should be filed by January 28, 2015 and should be addressed to the Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Room 1–A, Washington, DC 20426. Please reference the project name and project number (P–405–111) on all comments. Comments may be filed electronically via the Internet in lieu of paper. The Commission strongly encourages electronic filings. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''eFiling'' link. For further information, contact Carlisa Linton at (202) 502–8416.

Dated: December 29, 2014.

Kimberly D. Bose,

Secretary.

[FR Doc. 2014–30847 Filed 1–2–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. NJ15–9–000]

City of Colton, California; Notice of Filing

Take notice that on December 19, 2014, City of Colton, California submits tariff filing per 35.28(e): City of Colton 2015 Transmission Revenue Balancing Account Adjustment and Existing Transmission Contracts Update to be effective 1/1/2015.

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. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

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 9, 2015.

Dated: December 24, 2014.

Kimberly D. Bose,

Secretary.

[FR Doc. 2014–30799 Filed 1–2–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. NJ15–7–000]

City of Riverside, California; Notice of Filing

Take notice that on December 18, 2014, City of Riverside, California submits tariff filing per 35.28(e): City of Riverside 2015 Transmission Revenue Balancing Account Adjustment and Existing Transmission Contracts Update to be effective 1/1/2015.

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. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

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 8, 2015.

Dated: December 24, 2014.

Kimberly D. Bose,

Secretary.

[FR Doc. 2014–30796 Filed 1–2–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. NJ15–5–000]

City of Anaheim, California; Notice of Filing

Take notice that on December 15, 2014, City of Anaheim, California submits tariff filing per 35.28(e): City of Anaheim 2015 Transmission Revenue Balancing Account Adjustment Update to be effective 1/1/2015.

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. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

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 5, 2015.

Dated: December 24, 2014.

Kimberly D. Bose,

Secretary.

[FR Doc. 2014–30793 Filed 1–2–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. NJ15–6–000]

City of Pasadena, California; Notice of Filing

Take notice that on December 17, 2014, City of Pasadena, California submits tariff filing per 35.28(e): City of Pasadena 2015 Transmission Revenue Balancing Account Adjustment Update to be effective 1/1/2015.

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. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

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 7, 2015.

Dated: December 24, 2014.

Kimberly D. Bose,

Secretary.

[FR Doc. 2014–30794 Filed 1–2–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. NJ15–8–000]

City of Banning, California; Notice of Filing

Take notice that on December 19, 2014, City of Banning, California submits tariff filing per 35.28(e): City of Banning 2015 Transmission Revenue Balancing Account Adjustment and Existing Transmission Contracts Update to be effective 1/1/2015.

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. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

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 9, 2015.

Dated: December 24, 2014.

Kimberly D. Bose,

Secretary.

[FR Doc. 2014–30798 Filed 1–2–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. NJ15–10–000]

City of Azusa, California; Notice of Filing

Take notice that on December 22, 2014, City of Azusa, California submits tariff filing per 35.28(e): City of Azusa 2015 Transmission Revenue Balancing Account Adjustment and Existing Transmission Contracts Update to be effective 1/1/2015.

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. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

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 12, 2015.

Dated: December 24, 2014.

Kimberly D. Bose,

Secretary.

[FR Doc. 2014–30795 Filed 1–2–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP15–36–000]

National Fuel Gas Supply Corporation; Notice of Request Under Blanket Authorization

Take notice that on December 19, 2014 National Fuel Gas Supply Corporation (National Fuel), 6363 Main Street, Williamsville, New York 14221, filed in the above Docket, a prior notice request pursuant to sections 157.205, 157.208, 157.210 and 157.216 of the Commission's regulations under the Natural Gas Act (NGA) and National Fuel's blanket certificate issued in Docket No. CP83–4–000, for authorization to replace certain portions of Line NM–44 NY and Line U NY in Erie County, New York. National Fuel proposes to (1) construct and operate approximately 13.6 miles of 16-inch diameter pipeline, 0.6 miles of 20-inch diameter pipeline, and various auxiliary facilities and (2) to abandon approximately 13.3 miles of 16-inch diameter bare steel pipeline and 0.6 miles of 20-inch diameter bare steel pipeline. National Fuel states that proposed replacement will increase overall integrity, reliability and efficient operation of its pipeline system. National Fuel also states that due to engineering constraints several areas of new right-of-way are necessary and the estimated cost of work is $12 million, all as more fully set forth in the application which is on file with the Commission and open to 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 Online Support at *FERCOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or TTY, contact (202) 502–8659.

Any questions concerning this application may be directed to Kenneth E. Webster, Attorney for National Fuel, 6363 Main Street, Williamsville, New York 14221, or call at (716) 857–7067.

Pursuant to section 157.9 of the Commission's rules, 18 CFR 157.9, within 90 days of this Notice the Commission staff will either: complete

its environmental assessment (EA) and place it into the Commission's public record (eLibrary) for this proceeding; or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the final environmental impact statement (FEIS) or EA for this proposal. The filing of the EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will 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 FEIS or EA.

Any person may, within 60 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention. Any person filing to intervene or the Commission's staff may, pursuant to section 157.205 of the Commission's Regulations under the Natural Gas Act (NGA) (18 CFR 157.205) file a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the NGA.

The Commission strongly encourages electronic filings of comments, protests, and interventions via the internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site (*www.ferc.gov*) under the ''e-Filing'' link.

Dated: December 29, 2014.

Kimberly D. Bose,

Secretary.

[FR Doc. 2014–30845 Filed 1–2–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP15–35–000]

Southern Natural Gas Company, LLC; Notice of Request Under Blanket Authorization

Take notice that on December 17, 2014 Southern Natural Gas Company, LLC (Southern), 569 Brookwood Village, Suite 749, Birmingham, Alabama 35209, filed in the above Docket, a prior notice request pursuant to sections 157.205 and 157.216 of the Commission's regulations under the Natural Gas Act (NGA) and Southern's blanket certificate issued in CP82–406–000 on September 1, 1982, for authorization to abandon approximately 16.6 miles of its 8-inch West Point Line, approximately 1.5 miles of its 4-inch West Point Line and West Point Meter Station located in Noxubee, Lowndes and Clay Counties, Mississippi, all as more fully set forth in the application which is on file with the Commission and open to 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 Online Support at *FERCOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or TTY, contact (202) 502–8659.

Any questions concerning this application may be directed to Tina S. Hardy, Manager IC—Regulatory, Southern Natural Gas Company, 569 Brookwood Village, Suite 749, Birmingham, Alabama 35209, phone (205) 325–3668 or email *tina_hardy@kindermorgan.com.*

Specifically, Southern proposes to abandon in place 8-inch pipeline segment from milepost (MP) 0.00 to MP 16.60 and 4-inch pipeline segment form MP 22.786 to MP 24.257. Southern also proposes to remove ten above ground facilities on these pipeline segments, including the West Point Meter Station, and to grout and cap the pipe at all major road crossings. Southern states that the 8-inch pipeline ruptured on November 21, 2013 and the 4-inch line has not been used in 14 years. Southern also states that the abandonment will not impact Southern's firm requirements. Southern proposes to start abandonment work in April 2015 and complete it by June 2015. Southern states that the replacement cost for the facilities described above would be approximately $20.7 million.

Pursuant to section 157.9 of the Commission's rules, 18 CFR 57.9, within 90 days of this Notice the Commission staff will either: Complete its environmental assessment (EA) and place it into the Commission's public record (eLibrary) for this proceeding; or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the final environmental impact statement (FEIS) or EA for this proposal. The filing of the EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will 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 FEIS or EA.

Any person may, within 60 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention. Any person filing to intervene or the Commission's staff may, pursuant to section 157.205 of the Commission's Regulations under the Natural Gas Act (NGA) (18 CFR 157.205) file a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the NGA.

The Commission strongly encourages electronic filings of comments, protests, and interventions via the internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site (*www.ferc.gov*) under the ''e-Filing'' link.

Dated: December 24, 2014.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2014–30824 Filed 1–2–15; 8:45 am]

BILLING CODE 6717–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–1156]

Information Collection Being Submitted for Review and Approval to the Office of Management and Budget

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3520), the Federal Communications Commission (FCC or Commission) invites the general public and other Federal agencies to take this

opportunity to comment on the following information collections. Comments are requested concerning: whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

DATES: Written comments should be submitted on or before February 4, 2015. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contacts below as soon as possible.

ADDRESSES: Direct all PRA comments to Nicholas A. Fraser, OMB, via email *Nicholas_A._Fraser@omb.eop.gov;* and to Cathy Williams, FCC, via email *PRA@fcc.gov* and to *Cathy.Williams@fcc.gov.* Include in the comments the OMB control number as shown in the ''Supplementary Information'' section below.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection, contact Cathy Williams at (202) 418–2918. To view a copy of this information collection request (ICR) submitted to OMB: (1) Go to the Web page *http://www.reginfo.gov/public/do/PRAMain*, (2) look for the section of the Web page called ''Currently Under Review,'' (3) click on the downward-pointing arrow in the ''Select Agency'' box below the ''Currently Under Review'' heading, (4) select ''Federal Communications Commission'' from the list of agencies presented in the ''Select Agency'' box, (5) click the ''Submit'' button to the right of the ''Select Agency'' box, (6) when the list of FCC ICRs currently under review appears, look for the OMB control number of this ICR and then click on the ICR Reference Number. A copy of the FCC submission to OMB will be displayed.

SUPPLEMENTARY INFORMATION:

OMB Control No.: 3060–1156.

Title: 47 CFR 43.62, Annual Reporting Requirements for U.S. Providers of International Services and Circuits.

Form No.: N/A.

Type of Review: Revision of a currently approved information collection.

Respondents: Business or other for-profit.

Number of Respondents: 2,328 respondents; 14,606 responses.

Estimated Time per Response: 1–150 hours.

Frequency of Response: Annual reporting requirement.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this information collection is contained under Sections 1, 4(i)–4(j), 11, 201–205, 211, 214, 219, 220, 303(r), 309 and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i)–154(j), 161, 201–205, 211, 214, 219–220, 303(r), 309, 403.

Total Annual Burden: 14,606 hours.

Annual Cost Burden: $2,400.

Privacy Act Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: In general, there is no need for confidentiality with this collection of information. The Commission, however, will allow filing entities to seek confidential treatment of their data.

Needs and Uses: The Federal Communications Commission (Commission) is requesting that the Office of Management and Budget (OMB) approve a revision of OMB Control No. 3060–1156. The purpose of the revision is to obtain OMB approval of the annual reporting requirements stipulated under 47 CFR 43.62 which requires that entities providing international services file annual circuit capacity reports and annual traffic and revenue reports, in a format set out in a Filing Manual.

Upon the OMB's approval of the proposed changes in this information collection, the Commission plans to eliminate two existing information collections from the Commission's inventory, OMB Control Number 3060–0106 (47 CFR 43.61 annual traffic and revenue reports) and OMB Control Number 3060–0572 (47 CFR 43.82 annual circuit-status reports).

In order for carriers to comply with annual reporting requirements stipulated in 47 CFR 43.62, the Commission is developing a web-based system for filers to submit their reports. Filers will access the filing system via a portal on the FCC Web site, *www.FCC.gov* The software for the web-based system is now under development and the Commission is seeking final OMB approval for the new requirements in 47 CFR 43.62, the new consolidated Filing Manual and the electronic filing of the data.

Without this collection of information, the Commission would not be able to ensure compliance with its international rules and policies. Furthermore, the Commission would not have sufficient information to take measures to prevent anticompetitive conduct in the provision of international communications services. The Commission would not have adequate information to respond to failures in the U.S.-international market. The Commission would not be able to promote effective competition in the global market for communications services. The lack of effective competition would adversely affect the U.S. revenues in the telecommunications industry. The agency would not be able to comply with the international regulations stated in the World Trade Organization (WTO) Basic Telecom Agreement. Carriers and other entities outside the Commission, such as other government agencies, international organizations, and academia, use the information to analyze industry trends. Other government agencies use the information in merger analyses and negotiations with foreign countries. If the information collection was not conducted, carriers, government agencies and other entities would not have accurate industry data available in order to conduct analyses.

Federal Communications Commission.

Marlene H. Dortch,

Secretary, Office of the Secretary, Office of the Managing Director.

[FR Doc. 2014–30774 Filed 1–2–15; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[3060–0813]

Information Collection Being Submitted for Review and Approval to the Office of Management and Budget

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction

Act (PRA) of 1995 (44 U.S.C. 3501–3520), the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees. The FCC may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid Office of Management and Budget (OMB) control number.

DATES: Written PRA comments should be submitted on or before February 4, 2015. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Submit your PRA comments to Nicholas A. Fraser, Office of Management and Budget, via fax at 202–395–5167 or via Internet at *Nicholas_A._Fraser@omb.eop.gov* and to Benish Shah, Federal Communications Commission, via the Internet at *Benish.Shah@fcc.gov.* To submit your PRA comments by email send them to: *PRA@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: Benish Shah, Office of Managing Director, (202) 418–7866.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0813.

Title: Section 20.18, Enhanced 911 Emergency Calling Services.

Form Number: Not applicable.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other-for-profit and State, local and tribal governments.

Number of Respondents and Responses: 999 Respondents; 2,580 Responses.

Estimated Time per Response: 0.5–1 hours.

Frequency of Response: One-time third party disclosure requirements.

Obligation to Respond: Mandatory. Statutory authority for this information collection is contained in 47 U.S.C. Sections 151, 152, 154(i), 154(j), 154(o), 251(e), 303(b), 303(g), 303(r), 316, and 403.

Total Annual Burden: 2,473 hours.

Total Annual Cost: N/A.

Privacy Act Impact Assessment: N/A.

Nature and Extent of Confidentiality: There is no need for confidentiality.

Needs and Uses: The information collection entailed in a Public Safety Answering Point (PSAP) request is necessary to initiate E911 service, and serves as notice to the CMRS provider. The notification requirement on PSAPs will be used by the carriers to verify that wireless E911 calls are referred to PSAPs who have the technical capability to use the data to the caller's benefit. If the carrier challenges the validity of the request, the request will be deemed valid if the PSAP making the request provides the following information:

A. Cost Recovery. The PSAP must demonstrate that a mechanism is in place by which the PSAP will recover its costs of the facilities and equipment necessary to receive and utilize the E911 data elements;

B. Necessary Equipment. The PSAP must provide evidence that it has ordered the equipment necessary to receive and utilize the E911 data elements; and

C. Necessary Facilities. The PSAP must demonstrate that it has made a timely request to the appropriate local exchange carrier for the necessary trunking and other facilities to enable E911 data to be transmitted to the PSAP.

In the alternative, the PSAP may demonstrate that a funding mechanism is in place, that it is E911 capable using a Non-Call Associated Signaling technology, and that it has made a timely request to the appropriate LEC for the necessary ALI database upgrade.

Federal Communications Commission.

Sheryl D. Todd,

Deputy Secretary.

[FR Doc. 2014–30818 Filed 1–2–15; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[3060–0848]

Information Collection Being Submitted for Review and Approval to the Office of Management and Budget

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3520), the Federal Communications Commission (FCC or Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collections. Comments are requested concerning: whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees. The FCC may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

DATES: Written comments should be submitted on or before February 4, 2014. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contacts below as soon as possible.

ADDRESSES: Direct all PRA comments to Nicholas A. Fraser, OMB, via email *Nicholas_A._Fraser@omb.eop.gov;* and to Nicole Ongele, FCC, via email *PRA@fcc.gov* and to *Nicole.Ongele@fcc.gov.* Include in the comments the OMB control number as shown in the ''Supplementary Information'' section below.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the

information collection, contact Nicole Ongele at (202) 418–2991.

To view a copy of this information collection request (ICR) submitted to OMB: (1) Go to the Web page *http://www.reginfo.gov/public/do/PRAMain*, (2) look for the section of the Web page called ''Currently Under Review,'' (3) click on the downward-pointing arrow in the ''Select Agency'' box below the ''Currently Under Review'' heading, (4) select ''Federal Communications Commission'' from the list of agencies presented in the ''Select Agency'' box, (5) click the ''Submit'' button to the right of the ''Select Agency'' box, (6) when the list of FCC ICRs currently under review appears, look for the OMB control number of this ICR and then click on the ICR Reference Number. A copy of the FCC submission to OMB will be displayed.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0848.

Title: Deployment of Wireline Services Offering Advanced Telecommunications Capability, CC Docket No. 98–147.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit.

Number of Respondents: 750 respondents; 9,270 responses.

Estimated Time per Response: 3.54 hours (average burden per response).

Frequency of Response: On occasion reporting requirement, recordkeeping requirement and third party disclosure requirement.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this information collection is contained in 47 U.S.C. 201 and 251 of the Communications Act of 1934, as amended.

Total Annual Burden: 32,845 hours.

Total Annual Cost: No cost.

Privacy Act Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: The Commission is not requesting respondents to submit confidential information. Any respondent that submits information to the Commission that they believe is confidential may request confidential treatment of such information under 47 CFR 0.459 of the Commission's rules.

Needs and Uses: The information collection requirements implement sections 201 and 251 of the Communications Act of 1934, as amended, to provide for physical collocation on rates, terms and conditions that are just, reasonable and nondiscriminatory, and to promote deployment of advanced telecommunications services without significantly degrading the performance of other services. All of the requirements will be used by the Commission and competitive local exchange carriers (LECs) to facilitate the deployment of telecommunications services, including advanced telecommunications services.

Federal Communications Commission.

Marlene H. Dortch,

Secretary, Office of the Secretary Office of the Managing Director.

[FR Doc. 2014–30773 Filed 1–2–15; 8:45 am]

BILLING CODE 6712–01–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. 2014–30353) published on page 78436 of the issue for Tuesday, December 30, 2014.

Under the Federal Reserve Bank of Chicago heading, the entry for *Michael G. Lewis, individually and as trustee of the W. W. Pete Archbold Trust, Ossian, Indiana, to individually and together as a group acting in concert with the W.W. Pete Archbold Trust, David Lewis, Gary Lewis, Tonya Lewis, Barbara Gehring, Kent Gehring, and Diane Scheumann,* all of Ossian, Indiana, is revised to read as follows:

1. *Michael G. Lewis, individually and as trustee of the W. W. Pete Archbold Trust, Ossian, Indiana, to individually and together as a group acting in concert with the W.W. Pete Archbold Trust, David Lewis, Gary Lewis, Tonya Lewis, Barbara Gehring, Kent Gehring, and Diane Scheumann,* all of Ossian, Indiana; to acquire 10 percent of the voting shares of Ossian Financial Services, Inc., and thereby indirectly acquire control of Ossian State Bank, both of Ossian, Indiana.

Comments on this application must be received by January 9, 2015.

In addition, under the Federal Reserve Bank of Dallas heading, the entry for *Guadalupe Alonzo Cantu, individually and as trustee for Allysa Nichole Cantu, Alexis C. Cantu, GAC 2004 GRAT No. 1, YRC 2004 GRAT No. 1, Alexis C. Cantu UGTM, and Allysa Nichole Cantu UGTM; Yolanda R. Cantu, individually and as trustee for Alexis Cantu; Elvia Cantu Saenz, individually and as trustee of the Alonzo Cantu 2011 Exempt Family Trust; Jesus A. Saenz, individually; Elida F. Cantu, individually; and Victor Haddad, individually, and as trustee of the Alonzo Cantu 2005 Exempt Family Trust and the Yolanda R. Cantu 2005 Exempt Family Trust; all of McAllen, Texas; Samuel David Deanda, Jr., individually and as trustee of the Yolanda R. Cantu 2011 Exempt Family Trust, and Vivian Deanda, individually, both of Mission, Texas; Cantu Ventures, Ltd., Cantu Management, LLC, Alycan, Ltd.,* all of McAllen, Texas; collectively a group acting in concert, is revised to read as follows:

1. *Guadalupe Alonzo Cantu, individually and as trustee for Allysa Nichole Cantu, Alexis C. Cantu, GAC 2004 GRAT No. 1, YRC 2004 GRAT No. 1, Alexis C. Cantu UGTM, and Allysa Nichole Cantu UGTM; Yolanda R. Cantu, individually, and as trustee for Alexis Cantu; Elvia Cantu Saenz, individually, and as trustee of the Alonzo Cantu 2011 Exempt Family Trust; Jesus A. Saenz, individually; Elida F. Cantu, individually; and Victor Haddad, individually, and as trustee of the Alonzo Cantu 2005 Exempt Family Trust and the Yolanda R. Cantu 2005 Exempt Family Trust; all of McAllen, Texas; Samuel David Deanda, Jr., individually, and as trustee of the Yolanda R. Cantu 2011 Exempt Family Trust, and Vivian Deanda, individually, both of Mission, Texas; Cantu Ventures, Ltd., Cantu Management, LLC, Alycan, Ltd.,* all of McAllen, Texas, collectively as a group acting in concert; to retain voting shares of Lone Star National Bancshares-Texas, Inc., McAllen, Texas, and thereby indirectly retain voting shares of Lone Star National Bank, Pharr, Texas.

Comments on this application must be received by January 9, 2015.

Board of Governors of the Federal Reserve System, December 30, 2014.

Michael J. Lewandowski,

Associate Secretary of the Board.

[FR Doc. 2014–30816 Filed 1–2–15; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies; Correction

This notice corrects a notice (FR Doc. 2014–30354) published on page 78436 of the issue for Tuesday, December 30, 2014.

Under the Federal Reserve Bank of Kansas City heading, the entry for American Bancorporation, Inc., Sapulpa, Oklahoma, is revised to read as follows:

1. *American Bancorporation, Inc.,* Sapulpa, Oklahoma; to acquire 100 percent of the voting shares of Pawhuska Financial Corp., and thereby indirectly acquire First National Bank in Pawhuska, both in Pawhuska, Oklahoma.

Comments on this application must be received by January 20, 2015.

Board of Governors of the Federal Reserve System, December 30, 2014.

Michael J. Lewandowski,

Associate Secretary of the Board.

[FR Doc. 2014–30814 Filed 1–2–15; 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 26, 2015.

A. Federal Reserve Bank of Cleveland (Nadine Wallman, Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101–2566:

1. *First Citizens Bancorp,* Sandusky, Ohio; to acquire TCNB Financial Corp., Dayton, Ohio, and thereby indirectly acquire Citizens National Bank of Southwestern Ohio, Dayton, Ohio, which will merge with and into Citizens Banking Company, Sandusky, Ohio.

B. Federal Reserve Bank of Richmond (Adam M. Drimer, Assistant Vice President) 701 East Byrd Street, Richmond, Virginia 23261–4528:

1. *BB&T Corporation,* Winston-Salem, North Carolina; to acquire 100 percent of the voting securities of Susquehanna Bancshares, Inc., and thereby indirectly acquire Susquehanna Bank, both in Lititz, Pennsylvania.

C. Federal Reserve Bank of Atlanta (Chapelle Davis, Assistant Vice President) 1000 Peachtree Street NE., Atlanta, Georgia 30309:

1. *Citizens Bancorp Investment, Inc.,* Lafayette, Tennessee; to acquire 100 percent of the voting shares of TraCorp, Inc., Tullahoma, Tennessee.

In connection with this application, Applicant has also applied to merge with TraCorp, Inc., and thereby indirectly acquire Traders Bank, both in Tullahoma, Tennessee.

Board of Governors of the Federal Reserve System, December 29, 2014.

Michael J. Lewandowski,

Associate Secretary of the Board.

[FR Doc. 2014–30785 Filed 1–2–15; 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 29, 2015.

A. Federal Reserve Bank of New York (Ivan Hurwitz, Vice President) 33 Liberty Street, New York, New York 10045–0001:

1. *The Adirondack Trust Company Employee Stock Ownership Trust,* Saratoga Springs, New York; to acquire additional voting shares of 473 Broadway Holding Corporation and acquire additional voting shares of The Adirondack Trust Company, both in Saratoga Springs, New York.

B. Federal Reserve Bank of Kansas City (Dennis Denney, Assistant Vice President) 1 Memorial Drive, Kansas City, Missouri 64198–0001:

1. *Erick Bancshares, Inc.,* Erick, Oklahoma; to acquire 100 percent of the voting shares of First State Bank, Porter, Oklahoma.

2. *First American Bank of Erick ESOP/401(k) Plan,* Erick, Oklahoma; to become a bank holding company by acquiring no more than 36 percent of the voting shares of Erick Bancshares, Inc., and thereby indirectly acquire First American Bank, both in Erick, Oklahoma.

Board of Governors of the Federal Reserve System, December 30, 2014.

Michael J. Lewandowski,

Associate Secretary of the Board.

[FR Doc. 2014–30813 Filed 1–2–15; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Notice of Proposals To Engage in or To Acquire Companies Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y, (12 CFR part 225) to engage *de novo,* or to acquire or control voting securities or assets of a company, including the companies listed below, that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated.

The notice also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than January 20, 2015.

A. Federal Reserve Bank of Boston (Richard Walker, Community Affairs Officer) 600 Atlantic Avenue, Boston, Massachusetts 02210–2204:

1. *New Hampshire Mutual Bancorp,* Manchester, New Hampshire; to establish MillRiver Trust Company, and transfer the existing trust business from New Hampshire Mutual Bancorp's subsidiary bank, Merrimack County Savings Bank, both in Concord, New Hampshire, to MillRiver Trust Company, pursuant to sections 225.28(b)(5), (b)(6), (b)(6)(ii), (b)(6)(v), (b)(6)(vi), (b)(7)(i), (b)(7)(ii) and (b)(11)(iii)(A).

Board of Governors of the Federal Reserve System, January 30, 2014.

Michael J. Lewandowski,

Associate Secretary of the Board.

[FR Doc. 2014–30815 Filed 1–2–15; 8:45 am]

BILLING CODE 6210–01–P

GENERAL SERVICES ADMINISTRATION

[OMB Control No. 3090–0293; Docket No. 2014–0001; Sequence 2]

Submission to OMB for Review; Reporting and Use of Information Concerning Integrity and Performance of Recipients of Grants and Cooperative Agreements

AGENCY: Office of Technology Strategy/ Office of Government-wide Policy, General Services Administration (GSA).

ACTION: Notice of request for OMB review of an extension to an existing OMB information collection.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Regulatory Secretariat Division will be submitting to the Office of Management and Budget (OMB) a request to review and approve an extension of the currently approved information collection requirement regarding the Reporting and Use of Information Concerning Integrity and Performance of Recipients of Grants and Cooperative Agreements. A notice was published in the **Federal Register** at 79 FR 38028, July 3, 2014. No comments were received.

DATES: Submit comments on or before February 4, 2015.

ADDRESSES: Submit comments identified by Information Collection 3090–0293, Reporting and Use of Information Concerning Integrity and Performance of Recipients of Grants and Cooperative Agreements by any of the following methods:

- Regulations.gov: *http://www.regulations.gov.* Submit comments via the Federal eRulemaking portal by searching the OMB control number 3090–0293. Select the link ''Comment Now'' that corresponds with ''Information Collection 3090–0293, Reporting and Use of Information Concerning Integrity and Performance of Recipients of Grants and Cooperative Agreements.'' Follow the instructions provided on the screen. Please include your name, company name (if any), and ''Information Collection 3090–0293, Reporting and Use of Information Concerning Integrity and Performance of Recipients of Grants and Cooperative Agreements'' on your attached document.
- Mail: General Services Administration, Regulatory Secretariat Division (MVCB), 1800 F Street NW., Washington, DC 20405. ATTN: Ms. Flowers/IC 3090–0293.

Instructions: Please submit comments only and cite Information Collection 3090–0293, Reporting and Use of Information Concerning Integrity and Performance of Recipients of Grants and Cooperative Agreements, in all correspondence related to this collection. All comments received will be posted without change to *http://www.regulations.gov,* including any personal and/or business confidential information provided.

FOR FURTHER INFORMATION CONTACT: Ms. Judith R. Zawatsky, Director Outreach and Stakeholder Management, telephone 703–859–3826, email *judith.zawatsky@gsa.gov.*

SUPPLEMENTARY INFORMATION:

A. Purpose

This information collection is necessary in order to comply with section 872 of the Duncan Hunter National Defense Authorization Act of 2009, Pub. L. 110–417, as amended by Pub. L. 111–212, hereafter referred to as ''the Act.'' The Act requires GSA to establish and maintain databases of information regarding the integrity and performance of certain entities awarded Federal grants and contracts and use of the information by Federal officials making awards. OMB proposed implementing guidance for grants and cooperative agreements on February 18, 2010 (75 FR 7316). That guidance is in the process of being finalized. The proposed guidance requires appropriate Federal officials to report on terminations of awards due to material failure to comply with award terms and conditions; administrative agreements with entities to resolve suspension or debarment proceedings; and findings that entities were not qualified to receive awards. Through a new award term, each recipient would provide information about certain civil, criminal, and administrative proceedings that reached final disposition within the most recent five-year period and were connected with the award or performance of a Federal or State award. As section 872 requires, an entity also would be able to submit comments to the data system about any information that the system contains about the entity.

B. Annual Reporting Burden

Initial Response

Respondents: 11,500.
Responses per Respondent: 1.
Total Annual Responses: 11,500.
Hours Per Response: 0.1.
Total Response Burden Hours: 1,150.

Additional Response

Respondents: 1,600.
Responses per Respondent: 2.
Total Annual Responses: 3,200.
Hours Per Response: .5.
Total Response Burden Hours: 1,600.

Totals

Total number of responses: 14,700.
Total Burden Hours: 2,750.

C. Public Comments

Public comments are particularly invited on: Whether this collection of information is necessary for the proper performance of functions of the Reporting and Use of Information Concerning Integrity and Performance of Recipients of Grants and Cooperative Agreements, whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the information to be collected; and ways in which we can minimize the burden of the collection of information on those who are to respond, through the use of appropriate technological collection techniques or other forms of information technology.

Obtaining Copies of Proposals: Requesters may obtain a copy of the information collection documents from

the General Services Administration, Regulatory Secretariat Division (MVCB), 1800 F Street NW., Washington, DC 20405, telephone 202–501–4755. Please cite OMB Control No. 3090–0293, Reporting and Use of Information Concerning Integrity and Performance of Recipients of Grants and Cooperative Agreements, in all correspondence.

Dated: December 28, 2014.

Sonny Hashmi,

Chief Information Officer, Office of the Deputy CIO.

[FR Doc. 2014–30853 Filed 1–2–15; 8:45 am]

BILLING CODE 6820–WY–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30Day–15–14AYK]

Agency Forms Undergoing Paperwork Reduction Act Review

The Centers for Disease Control and Prevention (CDC) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The notice for the proposed information collection is published to obtain comments from the public and affected agencies.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address any of the following: (a) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) Enhance the quality, utility, and clarity of the information to be collected; (d) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses; and (e) Assess information collection costs.

To request additional information on the proposed project or to obtain a copy of the information collection plan and instruments, call (404) 639–7570 or send an email to *omb@cdc.gov.* Written comments and/or suggestions regarding the items contained in this notice should be directed to the Attention: CDC Desk Officer, Office of Management and Budget, Washington, DC 20503 or by fax to (202) 395–5806. Written comments should be received within 30 days of this notice.

Proposed Project

Information Collection on Cause-Specific Absenteeism in Schools (Pittsburgh Location)—New—National Center for Emerging and Zoonotic Infectious Diseases (NCEZID), Division of Global Migration and Quarantine (DGMQ), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

The Centers for Disease Control and Prevention (CDC), National Center for Emerging and Zoonotic Infectious Diseases (NCEZID), Division of Global Migration and Quarantine (DGMQ), requests approval of a new information collection to better understand the triggers, timing and duration of the use of school related measures for preventing and controlling the spread of influenza during the next pandemic.

The information collection for which approval is sought is in accordance with DGMQ/CDC's mission to reduce morbidity and mortality in mobile populations, and to prevent the introduction, transmission, or spread of communicable diseases within the United States. Insights gained from this information collection will assist in the planning and implementation of CDC Pre-Pandemic Guidance on the use of school related measures, including school closures, to slow transmission during an influenza pandemic.

School closures were considered an important measure during the earliest stage of the 2009 H1N1 pandemic, because a pandemic vaccine was not available until October (6 months later), and sufficient stocks to immunize all school-age children were not available until December. However, retrospective review of the U.S. government response to the pandemic identified a limited evidence-base regarding the effectiveness, acceptability, and feasibility of various school related measures during mild or moderately severe pandemics. Guidance updates will require an evidence-based rationale for determining the appropriate triggers, timing, and duration of school related measures, including school closures, during a pandemic.

CDC staff proposes that the information collection for this package will target adult and child populations in three school districts in Pennsylvania. CDC will collect reports of individual student symptoms, vaccination status, recent travel, recent exposure to people with influenza symptoms and duration of illness; this will be accomplished through telephone, in-person interviews, and a web-based survey. This information will be used to estimate baseline school absenteeism due to influenza as well as to evaluate the use of absentee recording systems in predicting community-wide influenza transmission.

Findings obtained from this information collection will be used to inform and update CDC's Pre-pandemic Guidance on the implementation of school related measures to prevent the spread of influenza, especially school closures. This Guidance is used as an important planning and reference tool for both State and local health departments in the United States.

CDC estimates that 7,160 participants could be recruited by information collections covered by this information collection. It is estimated that information collection activities will total 2,062 burden hours per year. 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)
Parents of children/adolescents attending schools	School Absentee Reporting.	2,500	4	5/60
Biospecimen collection from students (absentee surveillance).	N/A	2,500	4	5/60
Sentinel Family Cohort	Cohort Intake	360	1	10/60

ESTIMATED ANNUALIZED BURDEN HOURS—Continued

Type of respondent	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)
Sentinel Family Cohort	Cohort Weekly Illness Report.	360	12	3/60
Biospecimen collection from sentinel cohort (students and household members).	N/A	1,440	1	5/60

Leroy A. Richardson,

Chief, Information Collection Review Office, Office of Scientific Integrity, Office of the Associate Director for Science, Office of the Director, Centers for Disease Control and Prevention.

[FR Doc. 2014–30828 Filed 1–2–15; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier: CMS–10532]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

ACTION: Notice.

SUMMARY: The Centers for Medicare & Medicaid Services (CMS) is announcing an opportunity for the public to comment on CMS' intention to collect information from the public. Under the Paperwork Reduction Act of 1995 (PRA), federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, and to allow a second opportunity for public comment on the notice. Interested persons are invited to send comments regarding the burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

DATES: Comments on the collection(s) of information must be received by the OMB desk officer by February 4, 2015.

ADDRESSES: When commenting on the proposed information collections, please reference the document identifier or OMB control number. To be assured consideration, comments and recommendations must be received by the OMB desk officer via one of the following transmissions: OMB, Office of Information and Regulatory Affairs, Attention: CMS Desk Officer, Fax Number: (202) 395–5806 or Email: *OIRA_submission@omb.eop.gov.*

To obtain copies of a supporting statement and any related forms for the proposed collection(s) summarized in this notice, you may make your request using one of following:

1. Access CMS' Web site address at *http://www.cms.hhs.gov/PaperworkReductionActof1995.*
2. Email your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@cms.hhs.gov.*
3. Call the Reports Clearance Office at (410) 786–1326.

FOR FURTHER INFORMATION CONTACT: Reports Clearance Office at (410) 786–1326.

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520), federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. The term ''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 publish a 30-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, CMS is publishing this notice that summarizes the following proposed collection(s) of information for public comment:

1. Type of Information Collection Request: New collection (Request for a new OMB control number); *Title of Information Collection:* Risk Corridors Transitional Policy; *Use:* Section 1342 of the Patient Protection and Affordable Care Act of 2010 (the Affordable Care Act) provides for the establishment of a temporary risk corridors program that will apply to qualified health plans in the individual and small group markets for the first three years of Exchange operation. The implementing regulations for this provision are located in Part 153 Title 45 of the Code of Federal Regulations (CFR). A final rule published on March 11, 2014 (79 FR 13834; CMS–9954–F) and is effective May 12, 2014. Under 45 CFR 153.530(e), each issuer conducting business in the individual and small group markets in states that adopted the transitional policy is required to submit enrollment data, including enrollment in transitional policies (*i.e.* individual or small group health insurance coverage in states that adopted the transitional policy announced in the Centers for Medicare and Medicaid (CMS) letter dated November 14, 2013), on the ''Transitional Adjustment Reporting Form'' prescribed by CMS, for each state in which the issuer conducts business.

The data collection will be used to amend the risk corridors program provisions in 45 CFR part 153 to mitigate any unexpected losses for issuers of plans subject to risk corridors that are attributable to the effects of this transitional policy. Specifically, we will use the data to calculate the risk corridors adjustment percentage, if any, in transitional states. *Form Number:* CMS–10532 (OMB control number: 0938–New); *Frequency:* Once; *Affected Public:* Private sector (business or other for-profits and not-for-profit institutions); *Number of Respondents:* 400; *Number of Responses:* 400; *Total Annual Hours:* 400. (For policy questions regarding this collection, contact Jaya Ghildiyal at (301) 492–5149.)

Dated: December 29, 2014.

Martique Jones,

Director, Regulations Development Group, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2014–30800 Filed 1–2–15; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2014–N–2294]

Agency Information Collection Activities; Proposed Collection; Comment Request; Evaluation of the Food and Drug Administration's Multicultural Youth Tobacco Prevention Campaigns

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 and to allow 60 days for public comment in response to the notice. This notice solicits comments on the evaluation of FDA's multicultural youth tobacco prevention campaigns.

DATES: Submit either electronic or written comments on the collection of information by March 6, 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 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.

Evaluation of FDA's Multicultural Youth Tobacco Prevention Campaigns (OMB Control Number—0910–New)

The 2009 Family Smoking Prevention and Tobacco Control Act (Tobacco Control Act) (Pub. L. 111–31) amended the Federal Food, Drug, and Cosmetic Act (the FD&C Act) to grant FDA authority to regulate the manufacture, marketing, and distribution of tobacco products to protect public health and to reduce tobacco use by minors. Section 1003(d)(2)(D) of the FD&C Act (21 U.S.C. 393(d)(2)(D)) supports the development and implementation of FDA public education campaigns related to tobacco use. Accordingly, FDA is currently developing and implementing youth-targeted public education campaigns to help prevent tobacco use among multicultural youth and thereby reduce the public health burden of tobacco. The campaigns will feature events, advertisements on television and radio and in print, digital communications including social media, and other forms of media.

In support of the provisions of the Tobacco Control Act that require FDA to protect the public health and to reduce tobacco use by minors, FDA requests OMB approval to collect information needed to evaluate FDA's multicultural youth tobacco prevention campaigns. Comprehensive evaluation of FDA's public education campaigns is needed to ensure campaign messages are effectively received, understood, and accepted by those for whom they are intended. Evaluation is an essential organizational practice in public health and a systematic way to account for and improve public health actions.

FDA plans to conduct two studies to evaluate the effectiveness of each of its multicultural youth tobacco prevention campaigns: (1) An outcome evaluation study and (2) a media tracking survey. The timing of these studies will be designed to follow the multiple, discrete waves of media advertising planned for the campaigns.

Outcome Evaluation Studies

The outcome evaluation studies consist of baseline surveys of multicultural youth aged 12 to 18 before each campaign's launch. The baseline will be followed by three cross-sectional surveys of the target audience of youth at approximate 6-month intervals after the campaign's launch. Information will be collected about youth awareness of and exposure to campaign events and advertisements and about tobacco-related knowledge, attitudes, beliefs, intentions, and use. Information will also be collected on demographic variables including age, sex, race/ethnicity, grade level, and primary language.

Media Tracking Surveys

The media tracking surveys consist of assessments of youth aged 13 to 18 conducted at 3, 9, and 15 months postcampaign launch—timing that complements the outcome evaluation's timing. The media tracking surveys will assess awareness of the campaigns and receptivity to campaign messages. These data will provide critical evaluation feedback to the campaigns and will be conducted with sufficient frequency to match the cyclical patterns of events and media advertising and variation in exposure to allow for midcampaign refinements.

All information will be collected through in-person and Web-based questionnaires. Youth respondents will be recruited from four sources: (1) A sample drawn from 30 U.S. media markets gathered using an address-based postal mail sampling of U.S. households for the outcome evaluation studies, (2) an Internet panel for the media tracking surveys, (3) intercepts at various locations (*e.g.,* mall, events), and (4) targeted social media (*e.g.,* Facebook). Participation in the studies is voluntary.

The information collected is necessary to inform FDA's efforts and measure the effectiveness and public health impact of the campaigns. Data from the media-tracking surveys will be used to estimate awareness of and exposure to the campaigns among youth in target markets where the campaigns

are active. Data from the outcome evaluation studies will be used to examine statistical associations between exposure to the campaigns and subsequent changes in specific outcomes of interest, which will include knowledge, attitudes, beliefs, and intentions related to tobacco use.

FDA's burden estimate is based on prior experience with in-person and Internet panel studies similar to the Agency's plan presented in this document. To obtain the target number of completed surveys (completes) for the outcome evaluation studies, 48,000 youth respondents and their parent or legal guardian will be contacted through a screening and consent process. The estimated burden per response is 5 minutes, for a total of 4,000 hours. An estimated 16,800 surveys will be completed in the baseline and 3 postcampaign cross-sectional surveys. The estimated burden per response is 35 minutes for each survey wave, for a total of 9,800 hours.

To obtain the target number of completes for the media tracking survey, a total of 90,000 respondents will be contacted for the 3 survey waves through an online invitation. The estimated burden per response is 2 minutes, for a total of 3,000 hours for all waves of the Media Tracking Screener. An estimated 2,000 youth will be recruited to complete each of the 3 waves of the media tracking survey. The estimated burden per response is 30 minutes for each questionnaire, for a total of 3,000 hours for all of the three waves of the Media Tracking Questionnaire.

The total number of respondents is 160,800. The total estimated burden is 19,800 hours.

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

Type of respondent	Activity	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
General Population.	Screener and Consent Process (Youth and Parent)—Baseline/Wave 1—outcome study.	12,000	1	12,000	0.0833 (5 min.)	1,000
General Population.	Screener and Consent Process (Youth and Parent)—Wave 2—outcome study.	12,000	1	12,000	0.0833 (5 min.)	1,000
General Population.	Screener and Consent Process (Youth and Parent)—Wave 3—outcome study.	12,000	1	12,000	0.0833 (5 min.)	1,000
General Population.	Screener and Consent Process (Youth and Parent)—Wave 4—outcome study.	12,000	1	12,000	0.0833 (5 min.)	1,000
Multicultural Youth aged 12–18 in select media markets.	Baseline (Wave 1) youth outcome evaluation questionnaire.	4,200	1	4,200	0.5833 (35 min.)	2,450
	Wave 2 youth outcome evaluation questionnaire.	4,200	1	4,200	0.5833 (35 min.)	2,450
	Wave 3 youth outcome evaluation questionnaire.	4,200	1	4,200	0.5833 (35 min.)	2,450
	Wave 4 youth outcome evaluation questionnaire.	4,200	1	4,200	0.5833 (35 min.)	2,450
Multicultural youth aged 13–18 in the select media markets.	1st Media Tracking Screener	30,000	1	30,000	0.03333 (2 min.)	1,000
	1st Media Tracking Questionnaire.	2,000	1	2,000	0.5 (30 min.)	1,000
	2nd Media Tracking Screener	30,000	1	30,000	0.03333 (2 min.)	1,000
	2nd Media Tracking Questionnaire.	2,000	1	2,000	0.5 (30 min.)	1,000
	3rd Media tracking Screener	30,000	1	30,000	0.03333 (2 min.)	1,000
	3rd Media Tracking Questionnaire.	2,000	1	2,000	0.5 (30 min.)	1,000
Total	.....	160,800	.....	.....	.....	19,800

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Dated: December 29, 2014.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2014–30808 Filed 1–2–15; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Submission to OMB for Review and Approval; Public Comment Request

AGENCY: Health Resources and Services Administration, HHS.

ACTION: Notice.

SUMMARY: In compliance with Section 3507(a)(1)(D) of the Paperwork Reduction Act of 1995, the Health Resources and Services Administration (HRSA) has submitted an Information Collection Request (ICR) to the Office of Management and Budget (OMB) for review and approval. Comments submitted during the first public review of this ICR will be provided to OMB. OMB will accept further comments from the public during the review and approval period.

DATES: Comments on this ICR should be received no later than February 4, 2015.

ADDRESSES: Submit your comments, including the Information Collection Request Title, to the desk officer for HRSA, either by email to *OIRA_submission@omb.eop.gov* or by fax to 202–395–5806.

FOR FURTHER INFORMATION CONTACT: To request a copy of the clearance requests submitted to OMB for review, email the HRSA Information Collection Clearance Officer at *paperwork@hrsa.gov* or call (301) 443–1984.

SUPPLEMENTARY INFORMATION:

Information Collection Request Title: HRSA Grantee Customer Satisfaction Survey OMB No. 0915-xxxx—NEW

Abstract: The Office of Federal Assistance Management (OFAM) within HRSA plans to survey HRSA grant recipients to better understand their opinions about HRSA's grants processes and to improve the way HRSA conducts business with them. This survey will focus on grantee customer satisfaction areas related to the grants life cycle, grantee relationships with HRSA staff (*e.g.,* Project Officers), technical assistance received from HRSA bureaus and offices, availability of grant resources, and grantee access to guidance and instructional documents, etc. The ability to receive this information from external customers will provide HRSA with a repository of information, which will be incorporated into its strategic efforts to improve grants management services and customer service overall.

Need and Proposed Use of the Information: The HRSA Grantee Customer Satisfaction Survey will provide meaningful and relevant results to agency decision makers about various customer satisfaction domains (*e.g.,* efficiency, timeliness, usefulness, responsiveness, quality and overall satisfaction with HRSA project officers, products and services). The information collected will assist HRSA in its efforts to gauge, understand, and effectively respond to the needs and concerns of its customers, especially as they relate to the aforementioned areas. The survey results will provide HRSA with concrete indicators regarding the best areas in which to dedicate time, energy, and resources to improve customer service. This information will be used to support agency-wide continuous quality improvement (CQI) efforts. It will also be used by HRSA to improve the efficiency, quality, and timeliness of its grants business processes, as well as to strengthen its partnership with its external customers.

Likely Respondents: HRSA grantees, specifically individuals who hold positions as a grantee's Grant Administrator, Business Officer, or Project Director/Principal Investigator, etc.

Burden Statement: Burden in this context means the time expended by persons to generate, maintain, retain, disclose or provide the information requested. 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. The total annual burden hours estimated for this ICR are summarized in the table below.

TOTAL ESTIMATED ANNUALIZED BURDEN—HOURS

Form name	Number of respondents	Number of responses per respondent	Total responses	Average burden per response (in hours)	Total burden hours
HRSA Grantee Customer Satisfaction Survey	3,000	1	3,000	0.42	1260
Total	3,000	1	3,000	0.42	1260

Jackie Painter,

Acting Director, Division of Policy and Information Coordination.

[FR Doc. 2014–30778 Filed 1–2–15; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HOMELAND SECURITY

[DHS Docket No. ICEB–2013–0001]

RIN 1653–ZA07

Extension of Employment Authorization for Syrian F–1 Nonimmigrant Students Experiencing Severe Economic Hardship as a Direct Result of Civil Unrest in Syria Since March 2011

AGENCY: U.S. Immigration and Customs Enforcement (ICE), DHS.

ACTION: Notice.

SUMMARY: This notice informs the public of the extension of an earlier notice, which suspended certain requirements for F–1 nonimmigrant students whose country of citizenship is Syria and who are experiencing severe economic hardship as a direct result of the civil unrest in Syria since March 2011. This notice extends the effective date of that notice.

DATES: This notice is effective January 5, 2015 and will remain in effect until September 30, 2016.

FOR FURTHER INFORMATION CONTACT: Louis Farrell, Director, Student and Exchange Visitor Program, MS 5600, U.S. Immigration and Customs Enforcement, 500 12th Street SW., Washington, DC 20536–5600; email: *sevp@ice.dhs.gov,* telephone: (703) 603–3400. This is not a toll-free number. Program information can be found at *http://www.ice.gov/sevis/.*

SUPPLEMENTARY INFORMATION:

What action is DHS taking under this notice?

The Secretary of Homeland Security is exercising authority under 8 CFR 214.2(f)(9) to extend the suspension of the applicability of certain requirements governing on-campus and off-campus employment for F–1 nonimmigrant students whose country of citizenship is Syria and who are experiencing severe economic hardship as a direct result of the civil unrest in Syria since March 2011. *See* 77 FR 20038 (April 3, 2012). The original notice was effective from April 3, 2012 until October 3, 2013. A subsequent notice provided for an 18-month extension from October 3, 2013 through March 31, 2015. *See* 78 FR 36211 (June 17, 2013). Effective with this publication, suspension of the employment limitations is extended for 18 months from March 31, 2015 until September 30, 2016.

F–1 nonimmigrant students granted employment authorization through the notice will continue to be deemed to be engaged in a ''full course of study'' for the duration of their employment authorization, provided they satisfy the minimum course load requirement described in 77 FR 20038. *See* 8 CFR 214.2(f)(6)(i)(F).

Who is covered under this action?

This notice applies exclusively to F–1 nonimmigrant students whose country of citizenship is Syria and who were lawfully present in the United States in F–1 nonimmigrant status on April 3, 2012, under section 101(a)(15)(F)(i) of the Immigration and Nationality Act (INA), 8 U.S.C. 1101(a)(15)(F)(i); and are—

(1) Enrolled in an institution that is Student and Exchange Visitor Program (SEVP)-certified for enrollment of F–1 students,

(2) Currently maintaining F–1 status, and

(3) Experiencing severe economic hardship as a direct result of the civil unrest in Syria since March 2011.

This notice applies to both undergraduate and graduate students, as well as elementary school, middle school, and high school students. The notice, however, applies differently to elementary school, middle school, and high school students (see the discussion published at 77 FR 20040, available at *http://www.gpo.gov/fdsys/pkg/FR-2012-04-03/pdf/2012-7960.pdf,* in the question, ''Does this notice apply to elementary school, middle school, and high school students in F–1 status?'').

F–1 students covered by this notice who transfer to other academic institutions that are SEVP-certified for enrollment of F–1 students remain eligible for the relief provided by means of this notice.

Why is DHS taking this action?

The Department of Homeland Security (DHS) took action to provide temporary relief to F–1 nonimmigrant students whose country of citizenship is Syria and who experienced severe economic hardship because of the civil unrest in Syria since March 2011. *See* 77 FR 20038 (April 3, 2012). It enabled these F–1 students to obtain employment authorization, work an increased number of hours while school was in session, and reduce their course load, while continuing to maintain their F–1 student status.

Syria continues to experience civil unrest, with many people still displaced as a result. The United Nations reported in late September 2014 that approximately 6.4 million Syrians are internally displaced. A number of violent extremist groups have factored prominently in the conflict and pose a danger to civilians. In early 2014, the Islamic State of Iraq and the Levant (ISIL) emerged as one of the most significant radical Islamist fighting forces. The al-Nusra Front (also known as the Jabhat al Nusra) represents the interests of al-Qaeda in Syria. These Jihadist groups have engaged in indiscriminate attacks including bombings and suicide attacks throughout Syria. Various other radical Islamist organizations have been actively engaged in armed resistance in Syria. Furthermore, economic sanctions imposed by the international community have negatively affected the whole of the Syrian economy. Given conditions in Syria, affected students whose primary means of financial support comes from Syria may need to be exempt from the normal student employment requirements to be able to continue their studies in the United States and meet basic living expenses.

The United States is committed to continuing to assist the people of Syria. DHS is therefore extending this employment authorization for F–1 nonimmigrant students whose country of citizenship is Syria and who are continuing to experience severe economic hardship as a result of the civil unrest since March 2011.

How do I apply for an employment authorization under the circumstances of this notice?

F–1 nonimmigrant students whose country of citizenship is Syria who were lawfully present in the United States on April 3, 2012, and are experiencing severe economic hardship because of the civil unrest may apply for employment authorization under the guidelines described in 77 FR 20038. This notice extends the time period during which such F–1 students may seek employment authorization due to the civil unrest. It does not impose any new or additional policies or procedures beyond those listed in the original notice. All interested F–1 students should follow the instructions listed in the original notice.

Jeh Charles Johnson,

Secretary.

[FR Doc. 2014–30868 Filed 1–2–15; 8:45 am]

BILLING CODE 9111–28–P

DEPARTMENT OF HOMELAND SECURITY

Office of the Secretary

[Docket No. DHS–2014–0076]

Privacy Act of 1974; Department of Homeland Security Transportation Security Administration—DHS/TSA–019 Secure Flight Records System of Records

AGENCY: Privacy Office, Department of Homeland Security.

ACTION: Notice Privacy Act System of Records.

SUMMARY: In accordance with the Privacy Act of 1974, the Department of Homeland Security proposes to update and reissue a current Department of Homeland Security system of records titled, ''Department of Homeland Security/Transportation Security Administration—DHS/TSA–019 Secure Flight Records System of Records.'' This system of records allows the Department of Homeland Security/Transportation Security Administration to collect and maintain records on aviation passengers and certain non-travelers to screen such individuals before they access airport sterile areas or board aircraft, in order to identify and prevent a threat to aviation security or to the lives of passengers and others. TSA is reissuing this system of records to update the categories of records to include records containing risk-based assessments generated by

aircraft operators using data in their Computer-Assisted Passenger Prescreening Systems (CAPPS). These CAPPS assessments are used in risk-based analysis of Secure Flight and other prescreening data that produces a boarding pass printing result for each passenger. This change identifies additional passengers who may be eligible for expedited screening at airport security checkpoints. This updated system will continue to be included in the Department of Homeland Security's inventory of record systems. Additionally, this notice includes non-substantive changes to simplify the formatting and text of the previously published notice.

DATES: Submit comments on or before February 4, 2015. This updated system will be effective upon publication except that the change to the categories of records will be effective 30 days after date of publication in the **Federal Register**.

ADDRESSES: You may submit comments, identified by docket number DHS–2014–0076 by one of the following methods:

- *Federal e-Rulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* 202–343–4010.
- *Mail:* Karen L. Neuman, Chief Privacy Officer, Privacy Office, Department of Homeland Security, Washington, DC 20528.

Instructions: All submissions received must include the agency name and docket number for this rulemaking. All comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided.

Docket: For access to the docket to read background documents or comments received, please visit *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: For general questions, please contact: Peter Pietra, Privacy Officer, TSA–36, Transportation Security Administration, 601 South 12th Street, Arlington, VA 20598–6036; email: *TSAPrivacy@dhs.gov.* For privacy questions, please contact: Karen L. Neuman, Chief Privacy Officer, Privacy Office, Department of Homeland Security, Washington, DC 20528.

SUPPLEMENTARY INFORMATION:

I. Background

In accordance with the Privacy Act of 1974, 5 U.S.C. 552a, the Department of Homeland Security (DHS)/Transportation Security Administration (TSA) proposes to update and reissue a current DHS system of records titled, ''DHS/TSA–019 Secure Flight Records System of Records.'' This system of records notice was last updated on September 10, 2013.[1]

TSA is modifying DHS/TSA–019 by adding Computer-Assisted Passenger Prescreening System (CAPPS) assessments received from aircraft operators to the Categories of Records. CAPPS assessments are the product of a risk analysis of passenger name records (PNR)[2] and other information associated with flight reservations that aircraft operators collect in the ordinary course of business. These PNRs and other data provide risk indications and are used to assess passenger risk on a per flight basis. The CAPPS assessment, in turn, is used in the risk-based analysis of Secure Flight Passenger Data (SFPD)[3] and other prescreening data that produce a boarding pass printing result for each passenger. The early use of CAPPS by aircraft operators was to identify passengers other than those on watch lists who merited additional screening. TSA now will incorporate the CAPPS assessment to identify low-risk passengers who may be eligible for expedited screening in airports with TSA Pre✓® lanes. By receiving a CAPPS assessment (as opposed to the underlying data used to arrive at that assessment), TSA obtains important security value from information without receiving all the underlying data that are generated when individuals make their flight reservations.

TSA established the Secure Flight system of records and published the System of Records Notice (SORN) in the **Federal Register** on August 23, 2007.[4] TSA updated and republished the SORN in the **Federal Register** on November 9, 2007,[5] on November 19, 2012,[6] and on September 10, 2013.

Background on CAPPS

In response to the changing threat of terrorism,[7] President Clinton established the White House Commission on Aviation Safety and Security (Commission) in 1996.[8] In its final report,[9] the Commission recognized that aviation security is a national security issue and recommended that the Federal Aviation Administration (FAA) ''work with airlines and airport consortia to ensure that all passengers are positively identified and subjected to security procedures before they board aircraft.''[10] Specifically, the Commission recommended that the FAA, ''based on information already in [air carriers'] computer databases,'' leverage that industry investment by separating passengers ''into a very large majority who present little or no risk, and a small minority who merit additional attention.''[11] The Commission supported the development and implementation of automated passenger screening systems such as the system then under development by the FAA and Northwest Airlines.

Following the Commission's report, CAPPS was created by the FAA[12] to serve as a feasible alternative to conducting the Commission-recommended 100 percent checked baggage matching and explosive detection screening.[13] CAPPS was designed ''to exclude from the additional security measures the great majority of passengers who are very unlikely to present any threat and, conversely, to identify passengers to whom heightened security measures

[1] 78 FR 55270 (Sept. 10, 2013).

[2] A PNR contains details about an individual's travel on a particular flight, including information provided by the individual when making the flight reservation. Though the content of PNRs varies among airlines, PNRs may include: (1) Passenger name; (2) reservation date; (3) travel agency or agent; (4) travel itinerary information; (5) form of payment; (6) flight number; and (7) seating location. *See* DHS/TSA–017 Secure Flight Test Records, 70 FR 36320 (June 22, 2005). Some PNR data collected by aircraft operators provide evidence of potential security risks, and other data provide indications of low security risk. Other PNR data are security neutral.

[3] SFPD is full name, gender, date of birth, redress number or Known Traveler number, passport information (if applicable), reservation control number, record sequence number, record type, passenger update indicator, traveler reference number, and itinerary information. 49 CFR part 1560.

[4] 72 FR 48392.

[5] 72 FR 63711.

[6] 77 FR 69491.

[7] In addition to overseas threats from foreign terrorists, people and places in the United States were becoming targets, and Americans joined the ranks of terrorists. The 1993 and 1995 bombings of the World Trade Center in New York, and the Federal Building in Oklahoma City, respectively, were clear examples of the shift, as was the 1996 conviction of Ramzi Yousef for attempting to bomb American airliners over the Pacific Ocean.

[8] Executive Order 13015, *White House Commission on Aviation Safety and Security,* 61 FR 43937 (Aug. 22, 1996).

[9] White House Commission on Aviation Safety and Security, Final Report to President Clinton, February 12, 1997, found at *www.fas.org/irp/threat/212fin~1.html* (hereinafter *Report*).

[10] *Id.* at section 3.7.

[11] *Id.* at section 3.19. The *Commission* noted that the U.S. Customs Service (now U.S. Customs and Border Protection) successfully used such a system to better focus its resources and attention.

[12] The FAA implemented CAPPS pursuant to its general authority to prescribe regulations ''to protect passengers and property on an aircraft operating in air transportation or intrastate air transportation against an act of criminal violence or aircraft piracy.'' 49 U.S.C. 44903(b).

[13] *See Report* at section 3.24.

should be applied.'' [14] The FAA evaluated whether PNR and other data associated with flight reservations that the aircraft operator collected in the ordinary course of business provided indicators of high security risk or low risk, or whether the data were risk neutral.[15] Aircraft operators ran CAPPS in their reservation systems for originating passengers who checked bags prior to passenger boarding using the FAA-set standards for assessing these data.[16] When a CAPPS assessment raised security concerns the aircraft operator either screened the passenger's checked baggage using FAA-certified explosives detection equipment, or matched the bag to the passenger to ensure that the passenger's checked baggage was not transported aboard an airplane unless that passenger was aboard the same airplane and flight.

TSA was created in 2001 with the enactment of the Aviation and Transportation Security Act (ATSA),[17] and assumed responsibility for the CAPPS program from the FAA.[18] CAPPS continued to be operated by U.S. aircraft operators pursuant to the TSA-mandated Aircraft Operator Standard Security Program (AOSSP). Under this program, and prior to the implementation of Secure Flight, airlines were required to check passenger reservation data against watch lists. A CAPPS assessment indicating risk above a pre-set threshold required enhanced screening for passengers who were not on a watch list. For those passengers requiring additional screening as a result of their CAPPS assessment, the aircraft operator added the additional screening instruction to the boarding pass and TSA would perform the additional screening. As with the FAA, TSA did not receive the underlying PNR or associated reservations information. The additional screening included enhanced physical searches of individuals and their carry-on bags at the checkpoint.

The Intelligence Reform and Terrorism Prevention Act of 2004 (IRTPA) was enacted in December 2004.[19] Section 4012(a)(1)–(2) of IRPTA directed TSA and DHS to assume the function of comparing aircraft operator passenger information to data in the Terrorist Screening Database (TSDB) maintained by the Terrorist Screening Center (TSC) from aircraft operators.[20] TSA promulgated its Secure Flight Program regulations consistent with this statutory directive.[21] By November 2010, TSA fully assumed the watch list matching function from aircraft operators and air carriers in Secure Flight. Since that time, CAPPS has not been used to determine whether additional screening is warranted for certain passengers. Notably, however, IRTPA did not remove or amend the statutory requirement for aircraft operators to use CAPPS. Accordingly, the statutory and regulatory authorities for the use of CAPPS remain.

Use of CAPPS Assessments in Secure Flight Risk-Based Analysis

TSA plans to incorporate a CAPPS assessment generated by aircraft operators into its Secure Flight risk-based analysis of passenger and other prescreening data as part of ongoing efforts to enhance aviation security by identifying appropriate security screening for aviation travelers.[22] The CAPPS assessments are designed to enhance TSA's analysis of passenger security risk and enable TSA to make better passenger risk decisions. The incorporation of a CAPPS assessment into the Secure Flight risk-based analysis program with Secure Flight Passenger Data (SFPD) and other prescreening data is consistent with Congress's direction in ATSA to use CAPPS in passenger screening. CAPPS assessments generated by aircraft operators continue to rely on information collected by those operators in the ordinary course of business. Secure Flight does not receive the underlying data that are used for the CAPPS assessment.[23]

TSA has taken a number of steps to review the security value of CAPPS data including evaluating whether certain CAPPS data are indicative of low-risk passengers. First, TSA worked with its airline partners to re-assess the security value of the individual CAPPS data elements. This effort resulted in refining CAPPS data elements. Second, TSA engaged the Civil Aviation Threat Working Group (CATWG), which is composed of analysts from various Federal Government agencies and led by a representative from the National Counterterrorism Center, to provide its assessment of the security value of CAPPS data. The CATWG provided its report of findings and recommendations in September 2013, which further refined the security value assigned to CAPPS data elements. Third, TSA asked the Homeland Security Studies and Analysis Institute [24] (a federally-funded research and development center) to review its approach to risk-based security screening including the use of CAPPS assessments. In March 2014, the Institute endorsed TSA's approach for

[14] *See* FAA Notice of Proposed Rulemaking, Security of Checked Baggage on Flights Within the United States, 64 FR 19220, 19221 (April 19, 1999).

[15] These evaluation criteria were reviewed by the Department of Justice, *id.* at 19224–25, and implemented in consultation with aircraft operators.

[16] *Id.* FAA funds subsidized a substantial portion of the aircraft operators' cost for development of the core CAPPS system, which was provided to eight lead operators (six separate Computer Reservation Systems), all smaller operators associated with the lead operators (*e.g.,* regional feeder airlines), plus 19 other regional and national aircraft operators that collectively served approximately 95 percent of domestic airline passengers. *Id.* at 19222.

[17] Pub.L. 107–71, 115 Stat. 597 (Nov. 19, 2001).

[18] In section 136 of ATSA (codified at 49 U.S.C. 44903(j)(2)(C)), Congress directed that aircraft operators use CAPPS or any successor system to screen *all* aircraft passengers, not just those who are checking bags. *See also* TSA Notice of rulemaking status, Security of Checked Baggage on Flights Within the United States; Certification of Screening Companies, 67 FR 67382, 67383 (Nov. 5, 2002). In addition, ATSA continued in effect all ''orders, determinations, rules, [and] regulations'' of the FAA ''until modified, terminated, superseded, set aside, or revoked in accordance with law by the [TSA Administrator], any other authorized official, a court of competent jurisdiction, or operation of law.'' *See* ATSA, section 141(b). ATSA also explicitly recognized the continuance of CAPPS when it exempted CAPPS from the requirement that the screening of passengers and property before boarding flights originating in the United States be carried out by a Federal Government employee. *See* 49 U.S.C. 44901(a).

[19] Pub. L. 108–458, 118 Stat. 3638 (Dec. 17, 2004). A genesis for IRPTA was the report of the The National Commission on Terrorist Attacks Upon the United States (the 9/11 Commission), which recommended that TSA perform watch list matching using the ''larger set of watch lists maintained by the Federal Government,'' and that screening issues associated with CAPPS be elevated for high-level attention and addressed promptly by the government. *See Final Report of the National Commission on Terrorist Attacks Upon the United States,* page 393 (July 22, 2004).

[20] The TSC maintains the Federal Government watch lists, including the terrorism watch list known as the TSDB. The TSC was established by the Attorney General in coordination with the Secretary of State, the Secretary of Homeland Security, the Director of the Central Intelligence Agency, the Secretary of the Treasury, and the Secretary of Defense. The Attorney General, acting through the Director of the Federal Bureau of Investigation (FBI), established the TSC in support of Homeland Security Presidential Directive 6 (HSPD–6), dated September 16, 2003, which required the Attorney General to establish an organization to consolidate the Federal Government's approach to terrorism screening and to provide for the appropriate and lawful use of terrorist information in screening processes.

[21] 73 FR 64018 (Oct. 28, 2008).

[22] For a discussion of Secure Flight risk-based analysis, see the September 10, 2013 Secure Flight SORN update at 78 FR 55270, and the Privacy Impact Assessment for Secure Flight, DHS/TSA/PIA–018(f) (Sept. 4, 2013), found at *http://www.dhs.gov/sites/default/files/publications/privacy-pia-tsa-secure-flight-update-09042013.pdf.*

[23] TSA, however, remains authorized to obtain such data for transportation security purposes under TSA's general compliance and enforcement authorities, such as TSA's authority to inspect aircraft operators to ensure compliance with security programs and TSA regulations (49 U.S.C. 114(f)(7), 49 CFR 1544.3); and TSA's authority to issue subpoenas and orders for the production of information (49 U.S.C. 40113(a) and 46104, 49 CFR 503.203(a)). TSA also collects the SFPD required to be provided under the Secure Flight Rulemaking.

[24] *See www.homelandsecurity.org.*

conducting Secure Flight risk-based analysis and recommended that TSA continue to strengthen this analysis by including CAPPS assessments. Finally, TSA reviewed its plans to use CAPPS assessments with senior officials from the Department of Homeland Security Offices of Privacy, Civil Rights and Liberties, and General Counsel. TSA further refined the security value assigned to CAPPS data elements based on input from these offices. These offices found that CAPPS assessments may be used as part of the Secure Flight risk-based analysis while also protecting passengers' privacy, civil rights, and civil liberties. In addition, these DHS offices will review CAPPS operations on an on-going basis, including the risk value assigned to individual CAPPS data elements, to assure CAPPS's continued security value, its connection to evolving security threat information, and its adherence to privacy, civil rights, civil liberties, and legal principles.

Currently, the Secure Flight passenger prescreening system has watch lists of high-risk individuals and uses these lists to issue boarding pass printing results, *e.g.,* selectee screening or ''do not board'' instructions. TSA also has lists of low-risk individuals who have been issued known traveler numbers (KTN)[25] that makes them eligible for expedited screening. These individuals may receive a boarding pass printing instruction that enables them to use TSA Pre✓® lanes.[26] TSA also uses risk-based analysis of SFPD and other prescreening data to make screening determinations (*e.g.,* to determine whether a passenger is eligible for expedited screening). The addition of CAPPS assessments to existing Secure Flight risk-based analysis will strengthen the risk assessment and increase the confidence level in the determination that a passenger is a lower risk and eligible for expedited screening.[27]

The CAPPS assessment that a passenger receives for any given flight may change on the next flight because of the range of CAPPS data and the associated security risks and benefits.

After these changes are implemented, passengers who are a match to a watch list will continue to receive appropriate enhanced screening. For all other passengers, the Secure Flight passenger prescreening computer system conducts a risk-based analysis of passenger data using: (1) The SFPD (including KTN) that TSA already receives from aircraft operators pursuant to Secure Flight regulations; (2) the CAPPS assessments; (3) frequent flyer designator codes that aircraft operators submit to TSA; and (4) other prescreening data available to TSA. The Secure Flight risk-based analysis determines whether passengers receive expedited, standard, or enhanced screening, and the results are indicated on the passenger's boarding pass.

No one will be denied the ability to fly or to enter the sterile area of an airport based solely on the results of the Secure Flight risk-based analysis, including the use of a CAPPS assessment in that analysis.

II. Privacy Act

The Privacy Act embodies fair information practice principles in a statutory framework governing the means by which the Federal Government agencies collect, maintain, use, and disseminate individuals' records. The Privacy Act applies to information that is maintained in a ''system of records.'' A ''system of records'' is a group of any records under the control of an agency from which information is retrieved by the name of an individual or by some identifying number, symbol, or other identifying particular assigned to the individual. The Privacy Act defines ''individual'' as U.S. citizens and lawful permanent residents. As a matter of policy, DHS extends administrative Privacy Act protections to all individuals where systems of records maintain information on U.S. citizens, lawful permanent residents, and visitors.

Below is the description of the DHS/TSA–019 Secure Flight Records System of Records.

In accordance with 5 U.S.C. 552a(r), DHS has provided a report of this system of records to the Office of Management and Budget and to Congress.

System of Records

Department of Homeland Security (DHS)/Transportation Security Administration (TSA)–019.

SYSTEM NAME:

DHS/TSA–019 Secure Flight Records.

SECURITY CLASSIFICATION:

Unclassified; Sensitive Security Information.

SYSTEM LOCATION:

Records are maintained at the Transportation Security Administration (TSA), 601 South 12th Street, Arlington, VA, and at other secure TSA facilities in Annapolis Junction, Maryland and Colorado Springs, Colorado. Records may also be maintained at the secured facilities of contractors or other parties performing functions under the Secure Flight program.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

(a) Individuals who attempt to make reservations for travel on, who have traveled on, or who have reservations to travel on a flight operated by a U.S. aircraft operator; or a flight into, out of, or overflying the United States that is operated by a foreign air carrier; or flights operated by the U.S. Government, including flights chartered or leased by the U.S. Government;

(b) Non-traveling individuals who seek to obtain authorization from an aircraft or airport operator to enter the sterile area of an airport;

(c) For flights that TSA grants a request by the operators of leased or charter aircraft with a maximum take-off weight over 12,500 pounds to screen the individuals using Secure Flight, the following individuals: (1) Individuals who seek to charter or lease an aircraft with a maximum take-off weight over 12,500 pounds or who are proposed to be transported on or operate such charter aircraft; and (2) owners or operators of such chartered or leased aircraft;

(d)(1) Known or suspected terrorists identified in the Terrorist Screening Database (TSDB) maintained by the Terrorist Screening Center (TSC); and (2) individuals identified on classified and unclassified governmental databases such as law enforcement, immigration, or intelligence databases;

(e) Individuals who have been distinguished from individuals on a watch list through a redress process or by other means; and

(f) Individuals who are identified as Known Travelers for whom the Federal Government conducted a security threat assessment and determined that they do not pose a security threat.

CATEGORIES OF RECORDS IN THE SYSTEM:

(a) Records containing passenger and flight information (*e.g.*, full name, date

[25] A Known Traveler Number means ''a unique number assigned to an individual for whom the Federal government has conducted a security threat assessment and determined does not pose a security threat.'' 49 CFR 1560.3.

[26] Passengers who are eligible for expedited screening are referred to a TSA Pre✓® lane where they typically are permitted to leave on their shoes, light outerwear, and belt, to keep their laptop in its case, and to keep their 3–1–1 compliant liquids/gels bag in a carry-on. TSA Pre✓® lanes are available at more than 118 airports nationwide. *See http://www.tsa.gov/tsa-precheck/airlines-airports.*

[27] Another potential outcome of Secure Flight risk-based analysis is that the addition of a CAPPS score may result in a passenger receiving standard screening who otherwise may have been eligible for expedited screening, or receiving enhanced screening instead of standard screening.

of birth, gender, redress number, known traveler number, passport information, frequent flyer designator code or other identity authentication or verification code obtained from aircraft operators, and itinerary); records containing assessments generated by aircraft operators under the Computer-Assisted Passenger Prescreening System (CAPPS); records containing the results of risk-based analysis in the TSA passenger prescreening system including boarding pass printing results; records containing information about non-traveling individuals seeking access to an airport sterile area for a purpose approved by TSA; and records containing information about individuals who seek to charter, lease, operate or be transported on aircraft with a maximum take-off weight over 12,500 pounds if TSA grants the request of an aircraft owner or operator to use Secure Flight;

(b) Records containing information from an individual's form of identification or a physical description of the individual;

(c) Records obtained from the TSC of known or suspected terrorists in the TSDB; and records regarding individuals identified on classified and unclassified governmental watch lists;

(d) Records containing the matching analyses and results of comparisons of individuals to the TSDB and other classified and unclassified governmental watch lists.

(e) Records related to communications between or among TSA and aircraft operators, airport operators, owners or operators of leased or charter aircraft with a maximum take-off weight over 12,500 pounds, TSC, law enforcement agencies, intelligence agencies, and agencies responsible for airspace safety or security regarding the screening status of passengers or non-traveling individuals and any operational responses to individuals identified in the TSDB;

(f) Records of the redress process that include information on known misidentified persons, including any Redress Number assigned to those individuals;

(g) Records that track the receipt, use, access, or transmission of information as part of the Secure Flight program;

(h) Electronic System for Travel Authorization status code generated by U.S. Customs and Border Protection (CBP) for international travelers; and

(i) Records containing information about individuals who are identified as Known Travelers.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

49 U.S.C. 114, 40113, 44901, 44903, and 44909.

PURPOSE(S):

The Secure Flight Records system are used to identify and protect against potential and actual threats to transportation security and support the Federal Government's counterterrorism efforts by assisting in the identification of individuals who warrant further scrutiny prior to boarding an aircraft or seek to enter a sterile area or who warrant denial of boarding or denial of entry to a sterile area on security grounds. It is also used to identify individuals who are lower-risk and therefore may be eligible for expedited security screening at the airport checkpoints. These functions are designed to facilitate the secure travel of the public.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

(1) To the TSC in order to: (a) Determine whether an individual is a positive identity match to an individual identified as a known or suspected terrorist in the watch list; (b) allow redress of passenger complaints; (c) facilitate an operational response (if one is deemed appropriate) for individuals who are a positive identity match to an individual identified as a known or suspected terrorist in the watch list; (d) provide information and analysis about terrorist encounters and known or suspected terrorist associates to appropriate domestic and foreign government agencies and officials for counterterrorism purposes; and (e) perform technical implementation functions necessary for the Secure Flight program.

(2) To contractors and their agents, grantees, experts, consultants, and others performing or working on a contract, service, grant, cooperative agreement, or other assignment for DHS, when necessary to accomplish an agency function related to this system of records. Individuals provided information under this routine use are subject to the same Privacy Act requirements and limitations on disclosure as are applicable to DHS officers and employees.

(3) To aircraft operators, foreign air carriers, airport operators, the Department of Transportation, and the Department of Defense or other U.S. Government agencies or institutions to communicate individual screening status and facilitate an operational response (where appropriate) to individuals who pose or are suspected of posing a risk to transportation or national security.

(4) To owners or operators of leased or charter aircraft to communicate individual screening status and facilitate an operational response (where appropriate) to individuals who pose or are suspected of posing a risk to transportation or national security.

(5) To the appropriate federal, state, local, tribal, territorial, or foreign, agency regarding or to identify individuals who pose, or are under reasonable suspicion of posing a risk to transportation or national security.

(6) To the Department of Justice (DOJ) or other Federal agencies for purposes of conducting litigation or administrative proceedings, when: (a) The Department of Homeland Security (DHS), or (b) any employee or former employee of DHS in his or her official capacity, or (c) any employee or former employee of DHS in his or her individual capacity where the DOJ or DHS has agreed to represent the employee, or (d) the United States or any agency thereof, is a party to the litigation or proceeding or has an interest in such litigation or proceeding.

(7) To the National Archives and Records Administration (NARA) or other Federal agencies pursuant to records management inspections being conducted under the authority of 44 U.S.C. 2904 and 2906.

(8) To a congressional office in response to an inquiry from that congressional office made at the request of the individual.

(9) To the Government Accountability Office or other agency, organization, or individual for the purposes of performing authorized audit or oversight operations, but only such information as is necessary and relevant to such audit and oversight functions.

(10) To the appropriate federal, state, local, tribal, territorial, or foreign agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, or order regarding a violation or potential violation of civil or criminal law, regulation, or order when such disclosure is proper and consistent with the performance of the official duties of the person making the disclosure.

(11) To international and foreign governmental authorities in accordance with law and formal or informal international agreements when such disclosure is proper and consistent with the performance of the official duties of the person making the disclosure.

(12) To appropriate agencies, entities, and persons when (a) TSA suspects or has confirmed that the security or confidentiality of information in the system of records has been

compromised; (b) TSA has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by TSA or another agency or entity) that rely upon the compromised information; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with TSA's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

(13) To appropriate federal, state, local, tribal, or foreign governmental agencies or multilateral governmental organizations, including the World Health Organization, for purposes of assisting such agencies or organizations in preventing exposure to or transmission of communicable or quarantinable disease or for combating other significant public health threats; appropriate notice will be provided of any identified health threat or risk.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained at the Transportation Security Administration, 601 South 12th Street, Arlington, VA, and at other secure TSA facilities in Annapolis Junction, Maryland and Colorado Springs, Colorado. Records also may be maintained at the secured facilities of contractors or other parties that perform functions under the Secure Flight program. The records are stored on magnetic disc, tape, digital media, and CD–ROM, and may also be retained in hard copy format in secure file folders or safes.

RETRIEVABILITY:

Data are retrievable by the individual's name or other identifier, as well as non-identifying information such as itinerary.

SAFEGUARDS:

All records are protected from unauthorized access through appropriate administrative, physical, and technical safeguards. The system is also protected through a multi-layer security approach. The protective strategies are physical, technical, administrative, and environmental in nature and provide role-based access control to sensitive data, physical access control to DHS facilities, confidentiality of communications, including encryption, authentication of sending parties, compartmentalizing databases; auditing software and personnel screening to ensure that all personnel with access to data are screened through background investigations commensurate with the level of access required to perform their duties.

Information in this system is safeguarded in accordance with applicable rules and policies, including any applicable TSA and DHS automated systems security and access policies. The system will be in compliance with Office of Management and Budget and National Institute of Standards and Technology guidance. Access to the computer system containing the records in this system of records is limited to those individuals who require it to perform their official duties. The computer system also maintains a real-time audit of individuals who access the system.

RETENTION AND DISPOSAL:

Records relating to an individual determined by the automated matching process to be neither a match nor a potential match to a watch list are destroyed within seven days after completion of the last leg of the individual's directional travel itinerary. Records relating to an individual determined by the automated matching process to be a potential watch list match are retained for seven years after the completion of the individual's directional travel itinerary. Records relating to an individual determined to be a confirmed watch list match are retained for 99 years after the date of match confirmation.

Lists of individuals stored in Secure Flight, such as individuals identified as Known Travelers and individuals who have been disqualified from eligibility to receive expedited screening as a result of their involvement in certain security incidents, are deleted or destroyed when superseded by an updated list.

SYSTEM MANAGER AND ADDRESS:

Secure Flight Mission Support Branch Manager, Transportation Security Administration, TSA–19, 601 South 12th Street, Arlington, VA 20598–6019.

NOTIFICATION PROCEDURE:

To determine whether this system contains records relating to you, write to the Freedom of Information Act Office, Transportation Security Administration, TSA–20, 601 South 12th Street, Arlington, VA 20598–6020.

RECORD ACCESS PROCEDURES:

Requests for records access must be in writing and should be addressed to the Freedom of Information Act Office, Transportation Security Administration, TSA–20, 601 South 12th Street, Arlington, VA 20598–6020. Requests should conform to the requirements of 6 CFR part 5, subpart B, which provides the rules for requesting access to Privacy Act records maintained by DHS. The envelope and letter should be clearly marked ''Privacy Act Access Request.'' The request should include a general description of the records sought and must include the requester's full name, current address, and date and place of birth. The request must be signed and either notarized or submitted under penalty of perjury. Some information may be exempt from access provisions. An individual who is the subject of a record in this system may access those records that are not exempt from disclosure. A determination whether a record may be accessed will be made at the time a request is received.

Individuals who believe they have been improperly denied entry by CBP, refused boarding for transportation, or identified for additional screening may submit a redress request through the DHS Traveler Redress Program (''TRIP''). *See* 72 FR 2294 (Jan. 18, 2007). TRIP is a single point of contact for individuals who have inquiries or seek resolution regarding difficulties they experienced during their travel screening at transportation hubs such as airports and train stations, or crossing U.S. borders. Through TRIP a traveler can correct erroneous data stored in Secure Flight and other data stored in other DHS databases through one application. Additionally, for further information on the Secure Flight program and the redress options please see the accompanying Privacy Impact Assessment for Secure Flight published on the DHS Web site at *www.dhs.gov/privacy*. Redress requests should be sent to: DHS Traveler Redress Inquiry Program (TRIP), TSA–901, 601 South 12th Street, Arlington, VA 20598–6036 or online at *http://www.dhs.gov/trip*.

CONTESTING RECORD PROCEDURES:

Same as ''Notification Procedure'' and ''Record Access Procedure'' above.

RECORD SOURCE CATEGORIES:

Information contained in the system is obtained from U.S. aircraft operators, foreign air carriers, the owners and operators of leased or charter aircraft with a maximum take-off weight over 12,500 pounds who request TSA screening, the TSC, TSA employees, airport operators, Federal executive

branch agencies, Federal judicial and legislative branch entities, State, local, international, and other governmental agencies, private entities for Known Traveler program participants, and the individuals to whom the records in the system pertain.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

No exemption will be asserted with respect to identifying information, or flight information, obtained from passengers, non-travelers, and aircraft owners or operators.

This system, however, may contain records or information recompiled or created from information contained in other systems of records, which are exempt from certain provisions of the Privacy Act. For these records of information only, in accordance with 5 U.S.C. 552a(j)(2) and (k)(2), TSA claims the following exemptions for these records or information from subsections (c)(3) and (4); (d)(1), (2), (3), and (4); (e)(1), (2), (3), (4)(G) through (I), (5), and (8); (f); and (g) of the Privacy Act of 1974, as amended, as necessary and appropriate to protect such information. Certain portions or all of these records may be exempt from disclosure pursuant to these exemptions.

Dated: December 10, 2014.

Karen L. Neuman,

Chief Privacy Officer, Department of Homeland Security.

[FR Doc. 2014–30856 Filed 1–2–15; 8:45 am]

BILLING CODE 9110–05–P

DEPARTMENT OF HOMELAND SECURITY

Office of the Secretary

[Docket No. DHS–2014–0065]

Privacy Act of 1974; Department of Homeland Security/U.S. Immigration and Customs Enforcement—013 Alien Health Records System of Records

AGENCY: Privacy Office, Department of Homeland Security.

ACTION: Notice of Privacy Act System of Records.

SUMMARY: In accordance with the Privacy Act of 1974, the Department of Homeland Security proposes to update and rename a Department of Homeland Security/U.S. Immigration and Customs Enforcement system of records notice now titled, ''Department of Homeland Security/U.S. Immigration and Customs Enforcement—013 Alien Health Records System of Records.'' This system maintains records that document the health screening, examination, and treatment of aliens arrested by the Department of Homeland Security and detained by U.S. Immigration and Customs Enforcement for civil immigration purposes in facilities where care is provided by the ICE Health Service Corps. With the publication of this updated system of records, several changes are being made: (1) New categories of records have been added; (2) new routine uses have been added to allow the Department of Homeland Security to share information from the system; and (3) additional information has been added to clarify the process regarding notification of and access to records. This updated system will be included in the Department of Homeland Security's inventory of record systems.

DATES: Submit comments on or before February 4, 2015. This updated system will be effective February 4, 2015.

ADDRESSES: You may submit comments, identified by docket number DHS–2014–0065 by one of the following methods:

- *Federal e-Rulemaking Portal: http://www.regulations.gov*. Follow the instructions for submitting comments.
- *Fax:* 202–343–4010.
- *Mail:* Karen L. Neuman, Chief Privacy Officer, Privacy Office, Department of Homeland Security, Washington, DC 20528.

Instructions: All submissions received must include the agency name and docket number for this notice. All comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided.

Docket: For access to the docket to read background documents or comments received, please visit *http://www.regulations.gov*.

FOR FURTHER INFORMATION CONTACT: For general questions, please contact Lyn Rahilly (202–732–3300), Privacy Officer, U.S. Immigration and Customs Enforcement. For privacy questions, please contact Karen L. Neuman (202–343–1717), Chief Privacy Officer, Privacy Office, U.S. Department of Homeland Security, Washington, DC 20528.

SUPPLEMENTARY INFORMATION:

I. Background

In accordance with the Privacy Act of 1974, 5 U.S.C. 552a, the Department of Homeland Security (DHS)/U.S. Immigration and Customs Enforcement (ICE) proposes to update and rename a current DHS system of records titled, ''DHS/ICE–013 Alien Health Records System of Records.''

DHS is updating and renaming the DHS/ICE–013 Alien Health Records System of Records to add new categories of records and routine uses, to provide additional information regarding the retention of records about minors, and to clarify the process regarding individual notification of and access to records. This system of records was previously titled DHS/ICE–013 Alien Medical Records System of Records. This system of records is maintained by the ICE Health Service Corps (IHSC), a division within ICE's Enforcement and Removal Operations (ERO) office. (**Note:** IHSC was previously named the Division of Immigration Health Services (DIHS).) This system of records maintains medical, mental health, and dental records that document the medical screening, examination, diagnosis, and treatment of aliens whom ICE detains for civil immigration purposes in facilities where medical care is provided by IHSC. It also maintains information about prisoners of the U.S. Marshals Service (USMS) who are housed in a detention facility operated by or on behalf of ICE pursuant to an agreement between the USMS and ICE, and where medical care is provided by IHSC. IHSC provides necessary and appropriate medical, mental health, and dental care to ICE detainees. IHSC medical staff may also procure consultation, diagnostic, treatment, or procedural services IHSC deems necessary and appropriate from external health care providers in facilities outside of IHSC. Medical information is typically shared with other health care providers to ensure a detainee's continuity of care. For individuals with infectious diseases of public health significance, their information may be shared with public health officials in order to prevent exposure to or transmission of the disease.

New categories of records have been added to the DHS/ICE–013 Alien Health Records System of Records to provide a more complete list of the types of records in the system. These include: payment authorizations for care provided to detainees by external healthcare providers and healthcare facilities; evaluation records, including records related to mental health evaluations; records related to medical grievances filed by detainees; and detainees' medical or healthcare records received from external healthcare providers. Additionally, new routine uses have been added to allow ICE to share information from the system of records. Below is a summary of the new routine uses and their corresponding letter:

U. To courts, magistrates, administrative tribunals, opposing counsel, parties, and witnesses, in the

course of immigration, civil, or criminal proceedings (including discovery, presentation of evidence, and settlement negotiations) and when DHS determines that use of such records is relevant and necessary to the litigation before a court or adjudicative body;

V. To an attorney or representative (as defined in 8 CFR 1.2, 292.1, 1001.1(f) or 1292.1) who is acting on behalf of an individual covered by this system of records in connection with any proceeding before United States Citizenship and Immigration Services (USCIS), ICE, or U.S. Customs and Border Protection (CBP), or the Department of Justice's Executive Office for Immigration Review;

W. To international, foreign, intergovernmental, and multinational government agencies, authorities, and organizations in accordance with law and formal or informal international arrangements;

X. To a coroner for purposes of identifying a deceased individual (whether or not such individual is deceased as a result of a crime), performance of an autopsy, or identifying cause of death;

Y. To the Department of Health and Human Services (HHS), the Centers for Disease Control and Prevention (CDC), or to any state or local health authorities, to ensure that all health issues potentially affecting public health and safety in the United States are adequately addressed;

Z. To a former employee of DHS for purposes of responding to an official inquiry or facilitating communications with a former employee that may be relevant for personnel-related or other official purposes;

AA. To the Department of State when it seeks information to consider or provide an informed response to a foreign government inquiring about an alien or an enforcement operation with transnational implications;

BB. To federal, state, local, tribal, territorial, or foreign government agencies or entities or multinational government agencies when DHS desires to exchange relevant data for the purpose of developing, testing, or implementing new software or technology related to this system of records;

CC. To federal, state, local, tribal, territorial, or foreign government agencies, medical personnel, or other individuals when DHS desires to use de-identified data for training or other similar purposes; and

DD. To medical and mental health professionals for the purpose of assessing an individual's mental competency before the Department of Justice's Executive Office for Immigration Review.

Additionally, the section describing the retention of records has been updated to include the retention period for records about minors. Medical records about a minor will be retained until the minor has reached the age of 27 years in order to comply with state laws regarding the retention of medical records related to minors. The records will then be destroyed.

Information has also been added to clarify the process regarding notification of and access to records. In addition to submitting a request for records under the Freedom of Information Act (FOIA), individuals currently detained in IHSC-staffed facilities may request access to their records by submitting a written request to a staff member in the facility's health care unit. Individuals may submit the request using a DHS Form G–639, *Freedom of Information/Privacy Act Request* or by otherwise requesting a copy of their medical records in writing. Although outside the scope of this SORN, there is no set procedure for how detainees access their medical records in a facility where IHSC does not provide care. Each facility has its own process and individuals seeking copies of their records should contact the chief administrative officer of the facility for guidance.

Finally, it is important to note that ICE IHSC is not subject to the provisions of the Health Insurance Portability and Accountability Act of 1996 (HIPAA) regulation, ''Standards for Privacy of Individually Identifiable Health Information'' (Privacy Rule), 45 CFR parts 160 and 164. ICE IHSC does not meet the statutory definition of a covered plan under HIPAA, 42 U.S.C. 1320d(5), and is specifically excluded from the application of HIPAA as a ''government funded program whose principal activity is the direct provision of healthcare to persons,'' 45 CFR 160.103 (definition of a health plan). Because ICE IHSC is not a covered entity, the restrictions proscribed by the HIPAA Privacy Rule are not applicable.

II. Privacy Act

The Privacy Act embodies fair information principles in a statutory framework governing the means by which the United States Government collects, maintains, uses, and disseminates individuals' records. The Privacy Act applies to information that is maintained in a ''system of records.'' A ''system of records'' is a group of any records under the control of an agency for which information is retrieved by the name of an individual or by some identifying number, symbol, or other identifying particular assigned to the individual. In the Privacy Act, an individual is defined to encompass United States citizens and lawful permanent residents. As a matter of policy, DHS extends administrative Privacy Act protections to all individuals where systems of records maintain information on U.S. citizens, lawful permanent residents, and visitors. Individuals may request access to their own records that are maintained in a system of records in the possession or under the control of DHS by complying with DHS Privacy Act regulations, 6 CFR part 5.

The Privacy Act requires each agency to publish in the **Federal Register** a description denoting the type and character of each system of records that the agency maintains, and the routine uses that are contained in each system in order to make agency record keeping practices transparent, to notify individuals regarding the uses to which their records are put, and to assist individuals to more easily find such files within the agency. Below is the description of the DHS/ICE—013 Alien Health Records System of Records.

In accordance with 5 U.S.C. 552a(r), DHS has provided a report of this system of records to the Office of Management and Budget and to Congress.

SYSTEM OF RECORDS

Department of Homeland Security (DHS)/U.S. Immigration and Customs Enforcement (ICE)—013

SYSTEM NAME:

Alien Health Records System

SECURITY CLASSIFICATION:

Unclassified and for official use only.

SYSTEM LOCATION:

Records are maintained in the ICE electronic health records (eHR) system and at detention facilities where care is provided by the Enforcement and Removal Operations ICE Health Service Corps (IHSC). IHSC provides care to aliens in all Service Processing Centers, which are ICE-operated facilities; at most contract detention facilities, which are owned and operated by a private company with which ICE contracts for detention services; and in some Intergovernmental Service Agreement (IGSA) facilities. IGSAs are facilities operated by a city, county, or state government and ICE contracts with them for detention services, leases bed space, or both from them. Records are also maintained at ICE Headquarters in Washington, DC, and at ICE field offices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Two categories of individuals are covered by this system. The first category is aliens detained by ICE for civil immigration purposes. These aliens have been booked into a detention facility where medical care is provided by IHSC. The second category is prisoners in the custody of the U.S. Marshals Service (USMS) who are being detained in facilities operated by or on behalf of ICE pursuant to an agreement between the USMS and ICE and who also receive medical care from IHSC. Hereafter, the term ''in ICE custody'' will be used to refer to both the aliens detained by ICE who receive medical care from IHSC and the USMS prisoners being housed in IHSC-staffed detention facilities.

CATEGORIES OF RECORDS IN THE SYSTEM:

Categories of records in this system include:

- Individual's name and aliases;
- Date of birth;
- Alien Registration Number (A-Number);
- USMS or Federal Bureau of Prisons Registration Number (if applicable);
- Phone numbers;
- Email addresses;
- Addresses;
- Country of Origin and Country of Citizenship;
- Nationality;
- Gender/Sex;
- Languages spoken;
- Medical history (self and family to establish medical history);
- Current medical conditions and diagnoses;
- Symptoms reported, including dates;
- Medical examination records and medical notes;
- Medical and mental health records and treatment plans;
- Dental history and records, including x-rays, treatment, and procedure records;
- Diagnostic data, such as tests ordered and test results;
- Problem list which contains the diagnoses and medical symptoms or problems as determined by a medical practitioner or reported by the person;
- Records concerning the diagnosis and treatment of diseases or conditions that present a public health threat, including information about exposure of other individuals and reports to public health authorities;
- Correspondence related to an individual's medical, dental, and mental health care;
- External healthcare provider records (emergency room, hospitalizations, specialized care, records of previous medical care or testing) including medical or healthcare records received from other correctional systems or ICE detention facilities not staffed by IHSC;
- Payment authorizations for care provided by external healthcare providers and healthcare facilities;
- Evaluation records, including records related to mental competency evaluations;
- Prescription and over-the-counter drug records;
- Records related to medical grievances filed by individuals in ICE custody;
- Information about medical devices used by individuals such as hearing aids and pacemakers;
- Information about special needs and accommodations for an individual with disabilities, such as requiring a cane, wheelchair, special shoes, or needing to sleep on a bottom bunk;
- Physician or other medical/dental provider's name and credentials such as medical doctor, registered nurse, and Doctor of Dental Science;
- Refusal forms;
- Informed consent forms; and
- Legal documents, such as death certificates, do-not-resuscitate orders, or advance directives (*e.g.,* living wills).

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 44 U.S.C. 3101; 8 U.S.C. 1103, 1222 and 1231; 42 U.S.C. 249.

PURPOSE(S):

The purpose of this system is to document and facilitate the provision of medical, dental, and mental health care to individuals in ICE custody in facilities where care is provided by IHSC. The system also supports the collection, maintenance, and sharing of medical information for these individuals in the interest of public health especially in the event of a public health emergency, such as an epidemic or pandemic.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed outside DHS as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

A. To the Department of Justice (DOJ), including U.S. Attorney Offices, or other federal agency conducting litigation or in proceedings before any court, adjudicative or administrative body, when it is relevant or necessary to the litigation and one of the following is a party to the litigation or has an interest in such litigation:

1. DHS or any component thereof;
2. Any employee or former employee of DHS in his/her official capacity;
3. Any employee or former employee of DHS in his/her individual capacity where DOJ or DHS has agreed to represent the employee; or
4. The United States or any agency thereof.

B. To a congressional office in response to an inquiry made at the request of the individual to whom the record pertains.

C. To the National Archives and Records Administration (NARA) or General Services Administration pursuant to records management inspections being conducted under the authority of 44 U.S.C. 2904 and 2906.

D. To an agency or organization for the purpose of performing audit or oversight operations as authorized by law, but only such information as is necessary and relevant to such audit or oversight function.

E. To appropriate agencies, entities, and persons when:

1. DHS suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised;
2. DHS has determined that as a result of the suspected or confirmed compromise, there is a risk of identity theft or fraud, harm to economic or property interests, harm to an individual, or harm to the security or integrity of this system or other systems or programs (whether maintained by DHS or another agency or entity) that rely upon the compromised information; and
3. The disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with DHS' efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

F. To contractors and their agents, grantees, experts, consultants, and others performing or working on a contract, service, grant, cooperative agreement, or other assignment for DHS, when necessary to accomplish an agency function related to this system of records. Individuals provided information under this routine use are subject to the same Privacy Act requirements and limitations on disclosure as are applicable to DHS officers and employees.

G. Where a record, either on its face or in conjunction with other information, indicates a violation or

potential violation of law, rule, regulation, or order, which includes criminal, civil, or regulatory violations, and such disclosure is proper and consistent with the official duties of the person making the disclosure, a disclosure may be made to the appropriate federal, state, local, tribal, territorial, international, or foreign law enforcement agencies or other appropriate authorities charged with investigating or prosecuting a violation or enforcing or implementing such law, rule, regulation, or order.

H. To hospitals, physicians, medical laboratories and testing facilities, and other medical service providers, for the purpose of diagnosing and treating medical conditions or arranging the care of individuals in ICE custody and of individuals released or about to be released from ICE custody including, but not limited to, released under an order of supervision, on their own recognizance, on bond, on parole, or in an alternative to detention program.

I. To prospective claimants and their attorneys for the purpose of negotiating the settlement of an actual or prospective claim against DHS or its current or former employees, in advance of the initiation of formal litigation or proceedings.

J. To immediate family members and attorneys or other agents acting on behalf of an alien to assist those individuals in determining the current medical condition of an alien in ICE custody provided they can present adequate verification of a familial or agency relationship with the alien.

K. To federal, state, local, tribal, territorial, or foreign governmental agencies; multilateral governmental organizations; or other public health entities, for the purposes of protecting the vital interests of a record subject or other persons, including to assist such agencies or organizations during an epidemiological investigation, in facilitating continuity of care, preventing exposure to or transmission of a communicable or quarantinable disease of public health significance, or to combat other significant public health threats.

L. To hospitals, physicians, and other healthcare providers for the purpose of protecting the health and safety of individuals who may have been exposed to a contagion or biohazard, or to assist such persons or organizations in preventing exposure to or transmission of a communicable or quarantinable disease or to combat other significant public health threats.

M. To individuals for the purpose of determining if they have had contact in a custodial setting with a person known or suspected to have a communicable or quarantinable disease and to identify and protect the health and safety of others who may have been exposed.

N. To the U.S. Marshals Service (USMS) concerning USMS prisoners that are or will be held in detention facilities operated by or on behalf of ICE, and to federal, state, local, tribal, or territorial law enforcement or correctional agencies concerning an individual in ICE custody that is to be transferred to such agency's custody, in order to coordinate the transportation, custody, and care of these individuals.

O. To third parties to facilitate placement, or release of an individual (*e.g.,* at a group home, homeless shelter, with a family member, etc.) who has been released from DHS custody or whose case is being considered or prepared for release from DHS custody, but only such information that is relevant and necessary to arrange housing, continuing medical care, or other social services for the individual.

P. To a domestic government agency or other appropriate healthcare authority for the purpose of providing information about an individual who has been released from DHS custody or whose case is being considered or prepared for release from DHS custody who, due to a condition such as mental illness, may pose a health or safety risk to himself/herself or to the community. DHS will only disclose health information about the individual that is relevant to the health or safety risk they may pose or the means to mitigate that risk (*e.g.,* the alien's need to remain on certain medication for a serious mental health condition).

Q. To foreign governments for the purpose of coordinating and conducting the removal or return of aliens from the United States to other nations when disclosure of information about the alien's health is necessary or advisable to safeguard the public health, to facilitate transportation of the alien, to obtain travel documents for the alien, to ensure continuity of medical care for the alien, or is otherwise required by international agreement or law. Disclosure of medical information may occur after the alien's removal when it is necessary or advisable to assist the foreign government with the alien's ongoing medical care.

R. To the Federal Bureau of Prisons and other government agencies for the purpose of providing health information about an alien when custody of the alien is being transferred from DHS to the other agency. This will include the transfer of information about unaccompanied minor children to the U.S. Department of Health and Human Services.

S. To state, local, tribal or territorial agencies or other appropriate authority for the purpose of reporting vital statistics (*e.g.,* births, deaths).

T. To a public or professional licensing organization when such information indicates, either by itself or in combination with other information, a violation or potential violation of professional standards, or reflects on the moral, educational, or professional qualifications of a healthcare provider who is licensed or is seeking to become licensed.

U. To courts, magistrates, administrative tribunals, opposing counsel, parties, and witnesses, in the course of immigration, civil, or criminal proceedings (including discovery, presentation of evidence, and settlement negotiations) and when DHS determines that use of such records is relevant and necessary to the litigation before a court or adjudicative body when any of the following is a party to or have an interest in the litigation:

1. DHS or any component thereof;

2. Any employee of DHS in his/her official capacity;

3. Any employee of DHS in his/her individual capacity where the government has agreed to represent the employee; or

4. The United States, where DHS determines that litigation is likely to affect DHS or any of its components.

V. To an attorney or representative (as defined in 8 CFR 1.2, 292.1, 1001.1(f), or 1292.1) who is acting on behalf of an individual covered by this system of records in connection with any proceeding before USCIS, ICE, or CBP or the Department of Justice's Executive Office for Immigration Review.

W. To international, foreign, intergovernmental, and multinational government agencies, authorities, and organizations in accordance with law and formal or informal international arrangements.

X. To a coroner for purposes of identifying a deceased individual (whether or not such individual is deceased as a result of a crime) performance of an autopsy, or identifying cause of death.

Y. Consistent with the requirements of the Immigration and Nationality Act, to the Department of Health and Human Services (HHS), the Centers for Disease Control and Prevention (CDC), or to any state or local health authorities, to ensure that all health issues potentially affecting public health and safety in the United States are being or have been, adequately addressed.

Z. To a former employee of DHS for purposes of responding to an official inquiry by federal, state, local, tribal, or territorial government agencies or professional licensing authorities; or facilitating communications with a former employee that may be relevant and necessary for personnel-related or other official purposes when DHS requires information or consultation assistance from the former employee regarding a matter within that person's former area of responsibility.

AA. To the Department of State when it seeks information to consider or provide an informed response to a request for information from a foreign, international, or intergovernmental agency, authority, or organization about an alien or an enforcement operation with transnational implications.

BB. To federal, state, local, tribal, territorial, or foreign government agencies or entities or multinational government agencies when DHS desires to exchange relevant data for the purpose of developing, testing, or implementing new software or technology whose purpose is related to this system of records.

CC. To federal, state, local, tribal, territorial, or foreign government agencies, medical personnel, or other individuals when DHS desires to use de-identified data for illustrative or informative purposes in training, in presentations, or for other similar purposes.

DD. To medical and mental health professionals for the purpose of assessing an individual's mental competency before the Department of Justice's Executive Office for Immigration Review.

EE. To the news media and the public, with the approval of the Chief Privacy Officer in consultation with counsel, when there exists a legitimate public interest in the disclosure of the information or when disclosure is necessary to preserve confidence in the integrity of DHS or is necessary to demonstrate the accountability of DHS's officers, employees, or individuals covered by the system, except to the extent it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records in this system are stored electronically or on paper in secure facilities behind a locked door. Electronic records are stored on magnetic disc, tape, digital media, and CD–ROM.

RETRIEVABILITY:

Records may be retrieved by name, Alien Registration Number (A-Number), Subject ID, or USMS/Federal Bureau of Prisons Registration Number.

SAFEGUARDS:

Records in this system are safeguarded in accordance with applicable rules and policies, including all applicable DHS automated systems security and access policies. Strict controls have been imposed to minimize the risk of compromising the information that is being stored. Access to the computer systems containing the records in this system is limited to those individuals who have a need to know the information for the performance of their official duties and who have appropriate clearances or permissions.

RETENTION AND DISPOSAL:

ICE is in the process of developing a records retention schedule for the various records associated with the records described in this notice. ICE anticipates that:

(1) Medical records for an adult will be retained for ten (10) years after an individual has been released from ICE custody and then shall be destroyed;

(2) annual data on detainees who have died in ICE custody that has been transferred to the Bureau of Justice Statistics (BJS) and annual reports regarding infectious diseases will be retained for ten (10) years and then destroyed;

(3) various statistical reports will be retained permanently by NARA; and

(4) monthly and annual statistical reports, including those regarding workload operations, will be destroyed when no longer needed for business purposes.

SYSTEM MANAGER AND ADDRESS:

Assistant Director, ICE Health Service Corps, Enforcement and Removal Operations, U.S. Immigration and Customs Enforcement, 500 12th Street SW., Washington, DC 20536.

NOTIFICATION PROCEDURE:

Individuals seeking notification of and access to any record contained in this system of records, or seeking to contest its content, may submit a request in writing to the U.S. Immigration and Customs Enforcement Freedom of Information Act (FOIA) Officer, whose contact information can be found at *http://www.dhs.gov/foia* under ''FOIA Contact Information.'' If an individual believes more than one component maintains Privacy Act records concerning him or her, the individual may submit the request to the Chief Privacy Officer and Chief Freedom of Information Act Officer, Department of Homeland Security, 245 Murray Drive SW., Building 410, STOP–0655, Washington, DC 20528–0655.

When seeking records about yourself from this system of records or any other Departmental system of records, your request must conform with the Privacy Act regulations set forth in 6 CFR part 5. You must first verify your identity, meaning that you must provide your full name, current address, and date and place of birth. You must sign your request, and your signature must either be notarized or submitted under 28 U.S.C. 1746, a law that permits statements to be made under penalty of perjury as a substitute for notarization. While no specific form is required, you may obtain forms for this purpose from the Chief Privacy Officer and Chief Freedom of Information Act Officer, *http://www.dhs.gov* or 1–866–431–0486. In addition you should provide the following:

- An explanation of why you believe the Department would have information on you;
- Identify which component(s) of the Department you believe may have the information about you;
- Specify when you believe the records would have been created;
- Provide any other information that will help the FOIA staff determine which DHS component agency may have responsive records; and
- If your request is seeking records pertaining to another living individual, you must include a statement from that individual certifying his/her agreement for you to access his/her records.

Without this bulleted information, the component(s) may not be able to conduct an effective search, and your request may be denied due to lack of specificity or lack of compliance with applicable regulations.

In addition to submitting a request to the ICE or DHS FOIA Officer, individuals currently detained in IHSC-staffed facilities may request access to their records by submitting a written request to a staff member in the facility's health care unit. Individuals may submit the request using a Form G–639, Freedom of Information/Privacy Act

Request form or otherwise requesting a copy of their medical records in writing. Although outside the scope of this SORN, the following has been inserted for clarification purposes only. There is no set procedure for how individuals detained in a facility where IHSC does not provide care request access to their records. Each facility has its own process and individuals seeking copies of their records should contact the chief administrative officer of the facility for guidance.

RECORD ACCESS PROCEDURES:

See ''Notification procedure'' above.

CONTESTING RECORD PROCEDURES:

See ''Notification procedure'' above.

RECORD SOURCE CATEGORIES:

Information may be obtained from the individual, immediate family members, physicians, nurses, dentists, medical laboratories and testing facilities, hospitals, other medical and dental care providers, other law enforcement or custodial agencies, other detention facilities, and public health agencies.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Dated: December 11, 2014.

Karen L. Neuman,

Chief Privacy Officer, Department of Homeland Security.

[FR Doc. 2014–30854 Filed 1–2–15; 8:45 am]

BILLING CODE 9111–28–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2014–1061]

Merchant Marine Personnel Advisory Committee

AGENCY: Coast Guard, DHS.

ACTION: Notice of Federal Advisory Committee Working Group Meeting.

SUMMARY: A working group of the Merchant Marine Personnel Advisory Committee will meet to work on and review Task Statement 30, concerning evaluating military education, training, and assessment for the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978 and U.S. Coast Guard Certifications. This meeting will be open to the public.

DATES: The Merchant Marine Personnel Advisory Committee working group will meet on January 28 and 29, 2015, from 8 a.m. until 4 p.m. Please note that these meetings may adjourn early if all business is finished. Written comments for distribution to working group members and inclusion on the Merchant Marine Personnel Advisory Committee's Web site must be submitted by January 14, 2015.

ADDRESSES: The working group will meet in Room A129 of the Maritime Institute of Technology and Graduate Studies, 692 Maritime Boulevard, Linthicum Heights, MD 21090. For further information on the location of the Maritime Institute of Technology and Graduate Studies or services for individuals with disabilities or to request special assistance, please contact Mr. Brian Senft at (410)859–5700 or by email at *bsenft@CCMIT.org.*

To facilitate public participation, we are inviting public comment on the issues to be considered by the working group, as listed in the ''Agenda'' section below. Written comments must be identified by Docket No. USCG–2014–1061, and submitted by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments (preferred method to avoid delays in processing).
- *Fax:* 202–493–2251.
- *Mail:* Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590–0001.
- *Hand Delivery:* Same as mail address above, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays. The telephone number for the Docket Management Facility is 202–366–9329.

Instructions: All submissions received must include the words ''Department of Homeland Security'' and the docket number for this action. Comments received will be posted without alteration at *http://www.regulations.gov,* including any personal information provided. You may review a Privacy Act notice regarding our public dockets in the January 17, 2008, issue of the **Federal Register** (73 FR 3316).

Docket: For access to the docket to read documents or comments related to this notice, go to *http://www.regulations.gov,* enter the docket number in the ''Search'' field and follow instructions on the Web site.

A public oral comment period will be held each day during the working group meeting and speakers are requested to limit their comments to 3 minutes. Please note that the public oral comment periods may end before the prescribed ending times following the last call for comments. Contact Mr. Davis Breyer as indicated below no later than January 21, 2015 to register as a speaker.

This notice may be viewed in our online docket, USCG–2014–1061, at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Mr. Davis Breyer, Alternate Designated Federal Officer of the Merchant Marine Personnel Advisory Committee, telephone 202–372–1445 or at *davis.j.breyer@uscg.mil.* If you have any questions on viewing or submitting material to the docket, call Cheryl Collins, Program Manager, Docket Operations, telephone 202–366–9826 or 1–800–647–5527.

SUPPLEMENTARY INFORMATION: Notice of this meeting is given under the Federal Advisory Committee Act, title 5 United States Code Appendix.

The Merchant Marine Personnel Advisory Committee was established under the Secretary's authority under section 871 of the Homeland Security Act of 2002, title 6, United States Code, section 451, and chartered under the provisions of the Federal Advisory Committee Act. The Committee acts solely in an advisory capacity to the Secretary of the Department of Homeland Security through the Commandant of the Coast Guard and the Director of Commercial Regulations and Standards on matters relating to personnel in the U.S. merchant marine, including but not limited to training, qualifications, certification, documentation, and fitness standards. The Committee will advise, consult with, and make recommendations reflecting its independent judgment to the Secretary.

A copy of all meeting documentation, including the Task Statement, is available at *https://homeport.uscg.mil/* by using these key strokes: Missions; Port and Waterways; Safety Advisory Committees; MERPAC; and then use the announcements key. Alternatively, you may contact Mr. Breyer as noted in the **FOR FURTHER INFORMATION CONTACT** section above.

Agenda

The agenda for the January 28, 2015, working group meeting is as follows:

(1) Comment period for all attendees to discuss information they have that might assist the working group and the Merchant Marine Personnel Advisory Committee in meeting its objectives for Task Statement 30, concerning evaluating military education, training, and assessment for the International Convention on Standards of Training, Certification and Watchkeeping for

Seafarers, 1978 and U.S. Coast Guard Certifications;

(2) The working group will review and develop proposed recommendations for Task Statement 30; and

(3) Adjournment of meeting.

The agenda for the January 29, 2015, working group meeting is as follows:

(1) The working group will review and develop proposed recommendations concerning evaluating military education, training, and assessment for the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978 and U.S. Coast Guard Certifications;

(2) Public comment period;

(3) The working group will discuss and finalize proposed recommendations for the full committee to consider with regards to Task Statement 30, concerning evaluating military education, training, and assessment for the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978 and U.S. Coast Guard Certifications; and

(4) Adjournment of meeting.

Dated: December 29, 2014.

J.G. Lantz,

Director of Commercial Regulations and Standards.

[FR Doc. 2014–30850 Filed 1–2–15; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

[CIS No. 2548–14; DHS Docket No. USCIS–2013–0001]

RIN 1615–ZB35

Extension and Redesignation of the Syrian Arab Republic for Temporary Protected Status

AGENCY: U.S. Citizenship and Immigration Services, Department of Homeland Security.

ACTION: Notice.

SUMMARY: Through this Notice, the Department of Homeland Security (DHS) announces that the Secretary of Homeland Security (Secretary) is extending the designation of the Syrian Arab Republic (Syria) for Temporary Protected Status (TPS) for 18 months, from April 1, 2015 through September 30, 2016, and redesignating Syria for TPS for 18 months, effective April 1, 2015 through September 30, 2016.

The extension allows currently eligible TPS beneficiaries to retain TPS through September 30, 2016, so long as they otherwise continue to meet the eligibility requirements for TPS. The redesignation of Syria allows additional individuals who have been continuously residing in the United States since January 5, 2015 to obtain TPS, if otherwise eligible. The Secretary has determined that an extension of the current designation and a redesignation of Syria for TPS are warranted because the ongoing armed conflict and other extraordinary and temporary conditions that prompted the 2013 TPS redesignation have not only persisted, but have deteriorated, and because the ongoing armed conflict in Syria and other extraordinary and temporary conditions would pose a serious threat to the personal safety of Syrian nationals if they were required to return to their country.

Through this Notice, DHS also sets forth procedures necessary for nationals of Syria (or aliens having no nationality who last habitually resided in Syria) either to: (1) Re-register under the extension if they already have TPS and to apply for renewal of their Employment Authorization Documents (EADs) with U.S. Citizenship and Immigration Services (USCIS); or, (2) submit an initial registration application under the redesignation and apply for an EAD.

For individuals who have already been granted TPS under the 2012 original Syria designation or under the 2013 Syria redesignation, the 60-day re-registration period runs from January 5, 2015 through March 6, 2015. USCIS will issue new EADs with a September 30, 2016 expiration date to eligible Syria TPS beneficiaries who timely re-register and apply for EADs under this extension. Given the timeframes involved with processing TPS re-registration applications, DHS recognizes that not all re-registrants will receive new EADs before their current EADs expire on March 31, 2015. Accordingly, through this Notice, DHS automatically extends the validity of EADs issued under the TPS designation of Syria for 6 months, through September 30, 2015, and explains how TPS beneficiaries and their employers may determine which EADs are automatically extended and their impact on Employment Eligibility Verification (Form I–9) and E-Verify processes.

Under the redesignation, individuals who currently do not have TPS (or an initial TPS application pending) may submit an initial application during the 180-day initial registration period that runs from January 5, 2015 through July 6, 2015. In addition to demonstrating continuous residence in the United States since January 5, 2015 and meeting other eligibility criteria, initial applicants for TPS under this redesignation must demonstrate that they have been continuously physically present in the United States since April 1, 2015, the effective date of this redesignation of Syria, before USCIS may grant them TPS.

TPS initial applications that were either filed during 2012 designation or during the 2013 Syria redesignation and remain pending on January 5, 2015 will be treated as initial applications under this 2015 redesignation. Individuals who have a pending initial Syria TPS application will not need to file a new Application for Temporary Protected Status (Form I–821). DHS provides additional instructions in this Notice for individuals whose TPS applications remain pending and who would like to obtain an EAD valid through September 30, 2016.

DATES: *Extension of Designation of Syria for TPS:* The 18-month extension of the TPS designation of Syria is effective April 1, 2015, and will remain in effect through September 30, 2016. The 60-day re-registration period runs from January 5, 2015 through March 6, 2015.

Redesignation of Syria for TPS: The redesignation of Syria for TPS is effective April 1, 2015, and will remain in effect through September 30, 2016, a period of 18 months. The 180-day initial registration period for new applicants under the Syria TPS redesignation runs from January 5, 2015 through July 6, 2015.

FOR FURTHER INFORMATION CONTACT:

- For further information on TPS, including guidance on the application process and additional information on eligibility, please visit the USCIS TPS Web page at *http://www.uscis.gov/tps.* You can find specific information about this extension and redesignation of Syria for TPS by selecting ''TPS Designated Country: Syria'' from the menu on the left side of the TPS Web page.
- You can also contact the TPS Operations Program Manager at the Family and Status Branch, Service Center Operations Directorate, U.S. Citizenship and Immigration Services, Department of Homeland Security, 20 Massachusetts Avenue NW., Washington, DC 20529–2060; or by phone at (202) 272–1533 (this is not a toll-free number). Note: The phone number provided here is solely for questions regarding this TPS Notice. It is not for individual case status inquiries.
- Applicants seeking information about the status of their individual cases

can check Case Status Online, available at the USCIS Web site at *http://www.uscis.gov,* or call the USCIS National Customer Service Center at 800–375–5283 (TTY 800–767–1833).

• Further information will also be available at local USCIS offices upon publication of this Notice.

SUPPLEMENTARY INFORMATION:

Table of Abbreviations

BIA—Board of Immigration Appeals
DHS—Department of Homeland Security
DOS—Department of State
EAD—Employment Authorization Document
FNC—Final Nonconfirmation
Government—U.S. Government
IJ—Immigration Judge
INA—Immigration and Nationality Act
ISIL—Islamic State of Iraq and the Levant (also sometimes referred to as the Islamic State, ISIS, the Islamic State of Iraq and al-Sham, or the Islamic State of Iraq and Syria)
OSC—U.S. Department of Justice, Office of Special Counsel for Immigration-Related Unfair Employment Practices
SARG—Syrian Arab Republic Government
SAVE—USCIS Systematic Alien Verification for Entitlements Program
Secretary—Secretary of Homeland Security
TNC—Tentative Nonconfirmation
TPS—Temporary Protected Status
TTY—Text Telephone
UN—United Nations
UNHCR—United Nations High Commissioner for Refugees
USAID—U.S. Agency for International Development
USCIS—U.S. Citizenship and Immigration Services

What is Temporary Protected Status (TPS)?

• TPS is a temporary immigration status granted to eligible nationals of a country designated for TPS under the Immigration and Nationality Act (INA), or to eligible persons without nationality who last habitually resided in the designated country.

• During the TPS designation period, TPS beneficiaries are eligible to remain in the United States and may obtain work authorization, so long as they continue to meet the requirements of TPS.

• TPS beneficiaries may also be granted travel authorization as a matter of discretion.

• The granting of TPS does not result in or lead to permanent resident status.

• When the Secretary terminates a country's TPS designation, beneficiaries return to the same immigration status they maintained before TPS, if any (unless that status has since expired or been terminated), or to any other lawfully obtained immigration status they received while registered for TPS.

When was Syria designated for TPS?

On March 29, 2012, the Secretary designated Syria for TPS based on extraordinary and temporary conditions within that country that prevented Syrian nationals and those with no nationality who last resided in Syria from returning to Syria in safety. *See Designation of Syrian Arab Republic for Temporary Protected Status,* 77 FR 19026 (Mar. 29, 2012), and correction at 77 FR 20046 (Apr. 3, 2012); *see also* INA section 244(b)(1)(C), 8 U.S.C. 1254a(b)(1)(C). In 2013, the Secretary both extended Syria's designation and redesignated Syria for TPS for 18 months through March 31, 2015. *See Extension and Redesignation of Syria for Temporary Protected Status,* 78 FR 36223 (Jun. 17, 2013). The 2013 redesignation of Syria for TPS added the ongoing armed conflict in Syria as an additional basis for TPS. This announcement is the third designation of TPS for Syria and the first extension since the 2013 redesignation.

What authority does the Secretary have to extend the designation of Syria for TPS?

Section 244(b)(1) of the INA, 8 U.S.C. 1254a(b)(1), authorizes the Secretary, after consultation with appropriate U.S. Government (Government) agencies, to designate a foreign state (or part thereof) for TPS if the Secretary finds that certain country conditions exist.[1] The Secretary may then grant TPS to eligible nationals of that foreign state (or aliens having no nationality who last habitually resided in that state). *See* INA section 244(a)(1)(A), 8 U.S.C. 1254a(a)(1)(A).

At least 60 days before the expiration of a country's TPS designation or extension, the Secretary, after consultation with appropriate Government agencies, must review the conditions in a foreign state designated for TPS to determine whether the conditions for the TPS designation continue to be met. *See* INA section 244(b)(3)(A), 8 U.S.C. 1254a(b)(3)(A). If the Secretary determines that a foreign state continues to meet the conditions for TPS designation, the designation may be extended for an additional period of 6, 12 or 18 months. *See* INA section 244(b)(3)(C), 8 U.S.C. 1254a(b)(3)(C). If the Secretary determines that the foreign state no longer meets the conditions for TPS designation, the Secretary must terminate the designation. *See* INA section 244(b)(3)(B), 8 U.S.C. 1254a(b)(3)(B).

What is the Secretary's authority to redesignate Syria for TPS?

In addition to extending an existing TPS designation, the Secretary, after consultation with appropriate Government agencies, may redesignate a country (or part thereof) for TPS. *See* INA section 244(b)(1), 8 U.S.C. 1254a(b)(1); *see also* INA section 244(c)(1)(A)(i), 8 U.S.C. 1254a(c)(1)(A)(i) (requiring that ''the alien has been continuously physically present since the effective date of *the most recent designation of the state''*) (emphasis added). This is one of numerous instances in which the Secretary, and prior to the establishment of DHS, the Attorney General, has simultaneously extended a country's TPS designation and redesignated the country for TPS. *See, e.g., Extension and Redesignation of Syria for Temporary Protected Status,* 78 FR 36223 (Jun. 17, 2013); *Extension and Redesignation of Sudan for Temporary Protected Status,* 78 FR 1872 (Jan. 9, 2013); *Extension and Redesignation of Haiti for Temporary Protected Status,* 76 FR 29000 (May 19, 2011); *Extension of Designation and Redesignation of Liberia Under Temporary Protected Status Program,* 62 FR 16608 (Apr. 7, 1997) (discussing legal authority for redesignation of a country for TPS).

When the Secretary designates or redesignates a country for TPS, he also has the discretion to establish the date from which TPS applicants must demonstrate that they have been ''continuously resid[ing]'' in the United States. *See* INA section 244(c)(1)(A)(ii), 8 U.S.C. 1254a(c)(1)(A)(ii). This discretion permits the Secretary to tailor the ''continuous residence'' date to offer TPS to the group of eligible individuals that the Secretary deems appropriate.

The Secretary has determined that the ''continuous residence'' date for applicants for TPS under the redesignation of Syria shall be January 5, 2015. Initial applicants for TPS under this redesignation must also show they have been ''continuously physically present'' in the United States since April 1, 2015, which is the effective date of the Secretary's redesignation of Syria. *See* INA section 244(c)(1)(A)(i), 8 U.S.C. 1254a(c)(1)(A)(i). For each initial TPS application filed under the redesignation, the final determination of whether the applicant has met the ''continuous physical presence''

[1] As of March 1, 2003, in accordance with section 1517 of title XV of the Homeland Security Act of 2002, Public Law 107–296, 116 Stat. 2135, any reference to the Attorney General in a provision of the INA describing functions transferred from the Department of Justice to DHS ''shall be deemed to refer to the Secretary'' of Homeland Security. *See* 6 U.S.C. 557 (codifying the Homeland Security Act of 2002, tit. XV, section 1517).

requirement cannot be made until April 1, 2015. USCIS, however, will issue EADs, as appropriate, during the registration period in accordance with 8 CFR 244.5(b).

Why is the Secretary extending the TPS designation for Syria and simultaneously redesignating Syria for TPS through September 30, 2016?

Over the past year, DHS and the Department of State (DOS) have continued to review conditions in Syria. Based on this review and after consulting with DOS, the Secretary has determined that an 18-month extension and redesignation is warranted because the ongoing armed conflict and other extraordinary and temporary conditions that prompted the June 17, 2013 redesignation continue to be met. Furthermore, the Secretary has decided the conditions warrant changing the ''continuous residence'' date so as to provide TPS protection to eligible Syrian nationals who arrived between June 17, 2013 and January 5, 2015. The ''continuous physical presence'' date must be the effective date of the redesignation, which the Secretary has established as April 1, 2015 so that individuals granted TPS under the redesignation will have TPS for the same 18-month period through September 30, 2016 as TPS beneficiaries re-registering under the extension. *See* INA section 244(c)(1)(A)(i); 8 U.S.C. 1254a(c)(1)(A)(i).

Violence in Syria is widespread and indiscriminate. The Syrian Observatory for Human Rights estimates that more than 191,000 people have been killed since the start of the civil unrest in Syria in March 2011. The situation is extremely dangerous for civilians throughout the country with the deterioration of public security, continued arbitrary and unlawful killings, and the near collapse of public institutions, including health, education, and sanitation. The Syrian Arab Republic Government (SARG) continues to target humanitarian outposts, hospitals, medical staff, schools, breadlines, and other civilian sites. The SARG also regularly disrupts the delivery of humanitarian assistance to those in need. In addition to the ongoing, high-level atrocities committed by the SARG, rebel factions, violent extremists, foreign fighters, and unidentified assailants have abducted and killed civilians, journalists, humanitarian workers, and United Nations (UN) personnel.

The UN reported in late September 2014 that approximately 6.4 million Syrians are internally displaced. Acts of violence and human rights abuses continue in most major urban centers, and have significantly worsened in Aleppo, rural Damascus, Dar'a, Raqqa, northern Hasakah province, Deir al-Zour, and Latakia. Violent extremists openly surfaced among the armed opposition in the fight against the SARG, increasingly employing irregular tactics, including suicide bombings of security force targets, resulting in civilian casualties. The military continued to fight the opposition, responding with air strikes and heavy artillery, and harming civilians in the process.

A number of violent extremists have factored prominently in the conflict and pose a danger to civilians. In early 2014, the Islamic State of Iraq and the Levant (ISIL) emerged as one of the most significant radical Islamist fighting forces. The al-Nusra Front (also known as the Jabhat al Nusra) represents the interests of al-Qaeda in Syria. These violent extremist groups have engaged in indiscriminate attacks including bombings and suicide attacks throughout Syria. Various other violent extremists have been actively engaged in armed resistance in Syria. Reports indicate that there may be as many as 5,000 foreign fighters in Syria.

Since 2011, the Syrian military has engaged in warfare against opposition forces, with fighting taking place throughout Syria. In June 2014, Amnesty International reported that SARG forces continue to carry out indiscriminate attacks, bombarding populated civilian areas, and that opposition fighters have also carried out indiscriminate attacks. The UN indicated that increasingly the attacks by SARG forces and the armed opposition have targeted civilians. There has been an increase in the reported use of barrel bombs (oil drums packed with crude explosives and shrapnel) by the SARG and mortars by opposition forces against residential neighborhoods, particularly in Aleppo, Dar'a, rural Damascus, and Deir al-Zour.

Chemical weapons have been used against civilian populations and soldiers. In December 2013, the UN stated that chemical weapons were used in Ghouta, Khan al-Assal, Jobar, Saraqueb and Ashrafieh Sahnaya. The U.S. Government concluded the SARG used chemical weapons in the eastern suburbs outside Damascus in an August 2013 attack, killing more than 1,400 individuals. The regime has also employed the use of incendiary weapons and landmines in civilian areas, as well as ballistic missiles.

The Internal Displacement Monitoring Centre noted that by the end of 2013, Syria's internal displacement crisis had become the largest in the world. As of October 2014, the United Nations High Commissioner for Refugees (UNHCR) reported that more than 3.2 million refugees from Syria have sought refuge in neighboring countries. Although the pace of refugee outflow has decreased since mid-year 2013, UNHCR projects an estimated 3.6 million Syrian refugees in the region by the end of 2014. The UN Office for the Coordination of Humanitarian affairs reported that approximately 10.8 million Syrians remaining inside Syria were in need of humanitarian assistance as of June 2014. Access for delivery of humanitarian assistance to vulnerable people continues to be a serious challenge, with 4.7 million persons living in hard-to-reach areas with little or no access to assistance as of October 2014. The situation is extremely dangerous and precarious for civilians, including those who are internally displaced throughout the country.

Interethnic and sectarian violence is a severe problem and has resulted in civilian deaths and displacement. Armed groups are active in Syria, and several continue to threaten the long-term security of the region. Ongoing interethnic violence and the increasing role of violent extremist groups, including the ISIL and al-Nusra Front, are likely to perpetuate fighting for the foreseeable future.

In July 2014, the UN reported that siege tactics left many civilians trapped without food and subject to shelling and sniper attacks. Local NGOs and international humanitarian organizations such as UNHCR, the World Food Program, and the International Committee of the Red Cross face significant SARG-imposed obstacles to gaining access to areas under opposition control, particularly near Aleppo and the eastern suburbs of Damascus. Residents in Syria's northeastern provinces of Deir al-Zour, Hasakah, and Raqqa also are difficult to reach by humanitarian workers due to the presence of ISIL. Water and electricity supplies have been cut as a part of the conflict strategy. Due to lack of clean water, there has also been a rise in infectious and water-borne diseases. Illnesses such as measles and typhoid fever have grown exponentially since pre-war times and polio reemerged in Syria in 2013 for the first time since 1999, with 36 laboratory-confirmed cases.

Serious, persistent conflict continues to pose substantial risk throughout Syria. Tens of thousands have been killed by SARG forces and non-state armed groups. Concerns for safety have led to massive displacement within

Syria. The refusal of the SARG and certain armed groups to allow unfettered humanitarian access to vulnerable populations throughout the country, coupled with continued fighting, has caused a grave humanitarian crisis that continues to deteriorate. All of these factors together present an exceedingly dangerous security environment throughout most of the country. The high number of Syrian refugees and the continued escalation of the conflict within the country indicate that there is no immediate prospect for safe return.

Based upon this review and after consultation with appropriate Government agencies, the Secretary finds that:

- The conditions that prompted the June 17, 2013 redesignation of Syria for TPS continue to be met. *See* INA section 244(b)(3)(A) and (C), 8 U.S.C. 1254a(b)(3)(A) and (C).
- There continues to be ongoing armed conflict in Syria and, due to such conflict, requiring the return of Syrian nationals to Syria would pose a serious threat to their personal safety. *See* INA section 244(b)(1)(A), 8 U.S.C. 1254a(b)(1)(A).
- There continue to be extraordinary and temporary conditions in Syria that prevent Syrian nationals from returning to Syria in safety. *See* INA section 244(b)(1)(C), 8 U.S.C. 1254a(b)(1)(C).
- It is not contrary to the national interest of the United States to permit Syrian nationals (and persons who have no nationality who last habitually resided in Syria) who meet the eligibility requirements of TPS to remain in the United States temporarily. *See* INA section 244(b)(1)(C), 8 U.S.C. 1254a(b)(1)(C).
- The designation of Syria for TPS should be extended for an additional 18-month period from April 1, 2015 through September 30, 2016. *See* INA section 244(b)(3)(C), 8 U.S.C. 1254a(b)(3)(C).
- Based on current country conditions, Syria should be simultaneously redesignated for TPS effective April 1, 2015 through September 30, 2016. *See* INA sections 244(b)(1)(A), (b)(1)(C), and (b)(2); 8 U.S.C. 1254a(b)(1)(A), (b)(1)(C), and (b)(2).
- TPS applicants must demonstrate that they have continuously resided in the United States since January 5, 2015.
- The date by which TPS applicants must demonstrate that they have been continuously physically present in the United States is April 1, 2015, the effective date of the redesignation of Syria for TPS.
- There are approximately 5,000 current Syrian TPS beneficiaries who are expected to apply for re-registration and may be eligible to retain their TPS under the extension.
- It is estimated that an additional 5,000 individuals may file initial applications for TPS under the redesignation of Syria.

Notice of Extension of the TPS Designation of Syria and Redesignation of Syria for TPS

By the authority vested in me as Secretary under INA section 244, 8 U.S.C. 1254a, I have determined, after consultation with the appropriate Government agencies, that the conditions that prompted the redesignation of Syria for TPS in 2013 not only continue to be met, but have significantly deteriorated. *See* INA section 244(b)(3)(A), 8 U.S.C. 1254a(b)(3)(A). On the basis of these determinations, I am simultaneously extending the existing TPS designation of Syria for 18 months from April 1, 2015 through September 30, 2016, and redesignating Syria for TPS for the same 18-month period. *See* INA sections 244(b)(1)(A), (b)(1)(C), and (b)(2); 8 U.S.C. 1254a(b)(1)(A), (b)(1)(C), and (b)(2). I have also determined that eligible individuals must demonstrate that they have continuously resided in the United States since January 5, 2015. *See* INA section 244(c)(1)(A)(ii), 8 U.S.C. 1254a(c)(1)(A)(ii).

Jeh Charles Johnson,

Secretary.

I am currently a Syria TPS beneficiary. What should I do?

If you filed a TPS application during the Syria TPS registration period that ran from June 17, 2013 through December 16, 2013, and that application was approved prior to January 5, 2015, then you need to file a re-registration application under the extension if you wish to maintain TPS benefits through September 30, 2016. You must use the Application for Temporary Protected Status (Form I–821) to re-register for TPS. The 60-day open re-registration period will run from January 5, 2015 through March 6, 2015.

I have a pending initial TPS application filed during the Syria TPS registration period that ran from June 17, 2013 through December 16, 2013. What should I do?

If your TPS application is still pending on January 5, 2015, then you do not need to file a new Application for Temporary Protected Status (Form I–821). Pending TPS applications will be treated as initial applications under this re-designation. Therefore, if your TPS application is approved, you will be granted TPS through September 30, 2016. If you have a pending TPS application *and* you wish to have an EAD valid through September 30, 2016, please refer to Table 1 to determine whether you should file a new Application for Employment Authorization (Form I–765).

TABLE 1—FORM AND EAD INFORMATION FOR PENDING TPS APPLICATIONS

If . . .	And . . .	Then . . .
You requested an EAD during the previous initial registration period for Syria TPS.	You received an EAD with Category C19 or A12	You must file a new Application for Employment Authorization (Form I–765) with fee (or fee waiver request) if you wish to have a new EAD valid through September 30, 2016.
	You did not receive an EAD with Category C19 or A12	You do not need to file a new Application for Employment Authorization (Form I–765). If your TPS application is approved, your Application for Employment Authorization (Form I–765) will be approved through September 30, 2016.
You did not request an EAD during the previous initial registration period for Syria TPS.	You wish to have an EAD valid through September 30, 2016..	You must file a new Application for Employment Authorization (Form I–765) with fee (or fee waiver request).
	You do not wish to have an EAD valid through September 30, 2016.	You do not need to file a new Application for Employment Authorization (Form I–765).

I am not a TPS beneficiary, and I do not have a TPS application pending. What are the procedures for initial registration for TPS under the Syria redesignation?

If you are not a Syria TPS beneficiary or do not have a pending TPS application with USCIS, you may submit your TPS application during the 180-day initial registration period that will run from January 5, 2015 through July 6, 2015.

Required Application Forms and Application Fees To Register or Re-Register for TPS

To register or re-register for TPS for Syria, an applicant must submit each of the following two applications:

1. Application for Temporary Protected Status (Form I–821).

• If you are filing an initial application, you must pay the fee for the Application for Temporary Protected Status (Form I–821). *See* 8 CFR 244.2(f)(2) and 244.6 and information on initial filing on the USCIS TPS Web page at *http://www.uscis.gov/tps.*

• If you are filing an application for re-registration, you do not need to pay the fee for the Application for Temporary Protected Status (Form I–821). *See* 8 CFR 244.17.

and

2. Application for Employment Authorization (Form I–765).

• If you are applying for initial registration and want an EAD, you must pay the fee for the Application for Employment Authorization (Form I–765) only if you are age 14 through 65. No fee for the Application for Employment Authorization (Form I–765) is required if you are under the age of 14 or are 66 and older and applying for initial registration.

• If you are applying for re-registration, you must pay the fee for the Application for Employment Authorization (Form I–765) only if you want an EAD, regardless of age.

• You do not pay the fee for the Application for Employment Authorization (Form I–765) if you are not requesting an EAD, regardless of whether you are applying for initial registration or re-registration.

You must submit both completed application forms together. If you are unable to pay for the application and/or biometric services fee, you may apply for a fee waiver by completing a Request for Fee Waiver (Form I–912) or submitting a personal letter requesting a fee waiver, and by providing satisfactory supporting documentation. For more information on the application forms and fees for TPS, please visit the USCIS TPS Web page at *http://www.uscis.gov/tps.* Fees for the Application for Temporary Protected Status (Form I–821), the Application for Employment Authorization (Form I–765), and biometric services are also described in 8 CFR 103.7(b)(1)(i).

Biometric Services Fee

Biometrics (such as fingerprints) are required for all applicants 14 years of age or older. Those applicants must submit a biometric services fee. As previously stated, if you are unable to pay for the biometric services fee, you may apply for a fee waiver by completing a Request for Fee Waiver (Form I–912) or by submitting a personal letter requesting a fee waiver, and providing satisfactory supporting documentation. For more information on the biometric services fee, please visit the USCIS Web site at *http://www.uscis.gov.* If necessary, you may be required to visit an Application Support Center to have your biometrics captured.

Refiling an *Initial* TPS Application After Receiving a Denial of a Fee Waiver Request

If you request a fee waiver when filing your initial TPS application package and your request is denied, you may re-file your application packet before the initial filing deadline of July 6, 2015. If you submit your application with a fee waiver request before that deadline, but you receive a fee waiver denial and there are fewer than 45 days before the filing deadline (or the deadline has passed), you may still re-file your application within the 45-day period after the date on the USCIS fee waiver denial notice. Your application will not be rejected even if the filing deadline has passed, provided it is mailed within those 45 days and all other required information for the application is included. **Note:** If you wish, you may also wait to request an EAD and pay the Application for Employment Authorization (Form I–765) fee after USCIS grants you TPS, if you are found eligible. If you choose to do this, you would file the Application for Temporary Protected Status (Form I–821) with the fee and the Application for Employment Authorization (Form I–765) without fee and without requesting an EAD.

Re-Filing a TPS *Re-Registration* Application After Receiving a Denial of a Fee Waiver Request

USCIS urges all re-registering applicants to file as soon as possible within the 60-day re-registration period so that USCIS can process the applications and issue EADs promptly. Filing early will also allow those applicants who may receive denials of their fee waiver requests to have time to re-file their applications before the re-registration deadline. If, however, an applicant receives a denial of his or her fee waiver request and is unable to re-file by the re-registration deadline, the applicant may still re-file his or her application. This situation will be reviewed to determine whether the applicant has established good cause for late re-registration. However, applicants are urged to re-file within 45 days of the date on their USCIS fee waiver denial notice, if at all possible. *See* INA section 244(c)(3)(C); 8 U.S.C. 1254a(c)(3)(C); 8 CFR 244.17(c). For more information on good cause for late re-registration, visit the USCIS TPS Web page at *http://www.uscis.gov/tps.* **Note:** As previously stated, although a re-registering TPS beneficiary age 14 and older must pay the biometric services fee (but not the initial TPS application fee) when filing a TPS re-registration application, the applicant may decide to wait to request an EAD, and therefore not pay the Application for Employment Authorization (Form I–765) fee, until after USCIS has approved the individual's TPS re-registration, if he or she is eligible.

Mailing Information

Mail your application for TPS to the proper address in Table 2.

TABLE 2—MAILING ADDRESSES

If . . .	Mail to . . .
You are applying through the U.S. Postal Service	USCIS, Attn: TPS Syria, P.O. Box 6943, Chicago, IL 60680–6943.
You are using a non-U.S. Postal Service delivery service	USCIS, Attn: TPS Syria, 131 S. Dearborn 3rd Floor, Chicago, IL 60603–5517.

If you were granted TPS by an Immigration Judge (IJ) or the Board of Immigration Appeals (BIA), and you wish to request an EAD, or are re-registering for the first time following a grant of TPS by an IJ or the BIA, please mail your application to the appropriate address in Table 2. Upon receiving a Notice of Action (Form I–797) from USCIS, please send an email to *TPSijgrant.vsc@uscis.dhs.gov* with the receipt number and state that you submitted a re-registration and/or request for an EAD based on an IJ/BIA grant of TPS. You can find detailed information on what further information you need to email and the appropriate email address on the USCIS TPS Web page at *http://www.uscis.gov/tps.*

E-Filing

You cannot electronically file your application when re-registering or submitting an initial registration for Syria TPS. Please mail your application to the mailing address listed in Table 2.

Employment Authorization Document (EAD)

May I request an interim EAD at my local USCIS office?

No. USCIS will not issue interim EADs to TPS applicants or re-registrants at local offices.

Am I eligible to receive an automatic 6-month extension of my current EAD through September 30, 2015?

Provided that you currently have TPS under the Syria designation, this Notice automatically extends your EAD by 6 months if you:

- Are a national of Syria (or an alien having no nationality who last habitually resided in Syria);
- Received an EAD under the last extension or redesignation of TPS for Syria; and
- Have an EAD with a marked expiration date of March 31, 2015, bearing the notation ''A–12'' or ''C–19'' on the face of the card under ''Category.''

Although this Notice automatically extends your EAD through September 30, 2015, you must re-register timely for TPS in accordance with the procedures described in this Notice if you would like to maintain your TPS.

When hired, what documentation may I show to my employer as proof of employment authorization and identity when completing Employment Eligibility Verification (Form I–9)?

You can find a list of acceptable document choices on the ''Lists of Acceptable Documents'' for Employment Eligibility Verification (Form I–9). You can find additional detailed information on the USCIS I–9 Central Web page at *http://www.uscis.gov/I-9Central.* Employers are required to verify the identity and employment authorization of all new employees by using Employment Eligibility Verification (Form I–9). Within 3 days of hire, an employee must present proof of identity and employment authorization to his or her employer.

You may present any document from List A (reflecting both your identity and employment authorization), or one document from List B (reflecting identity) together with one document from List C (reflecting employment authorization). You may present an acceptable receipt for List A, List B, or List C documents as described in the Form I–9 Instructions. An EAD is an acceptable document under ''List A.'' Employers may not reject a document based on a future expiration date.

If your EAD has an expiration date of March 31, 2015, and states ''A–12'' or ''C–19'' under ''Category,'' it has been extended automatically for 6 months by virtue of this **Federal Register** Notice, and you may choose to present your EAD to your employer as proof of identity and employment authorization for Employment Eligibility Verification (Form I–9) through September 30, 2015 (see the subsection titled ''*How do my employer and I complete the Employment Eligibility Verification (Form I–9) using an automatically extended EAD for a new job?''* for further information). To minimize confusion over this extension at the time of hire, you may also show your employer a copy of this **Federal Register** Notice confirming the automatic extension of employment authorization through September 30, 2015. As an alternative to presenting your automatically extended EAD, you may choose to present any other acceptable document from List A, or a combination of one selection from List B and one selection from List C.

What documentation may I show my employer if I am already employed but my current TPS-related EAD is set to expire?

Even though EADs with an expiration date of March 31, 2015, that state ''A–12'' or ''C–19'' under ''Category'' have been automatically extended for 6 months by this **Federal Register** Notice, your employer will need to ask you about your continued employment authorization once March 31, 2015, is reached to meet its responsibilities for Employment Eligibility Verification (Form I–9). However, your employer does not need a new document to reverify your employment authorization until September 30, 2015, the expiration date of the automatic extension. Instead, you and your employer must make corrections to the employment authorization expiration dates in Section 1 and Section 2 of Employment Eligibility Verification (Form I–9) (see the subsection titled ''*What corrections should my current employer and I make to Employment Eligibility Verification (Form I–9) if my EAD has been automatically extended?''* for further information). In addition, you may also show this **Federal Register** Notice to your employer to explain what to do for *Employment Eligibility Verification* (Form I–9).

By September 30, 2015, the expiration date of the automatic extension, your employer must reverify your employment authorization. At that time, you must present any document from List A or any document from List C on Employment Eligibility Verification (Form I–9) to reverify employment authorization, or an acceptable List A or List C receipt described in the Form I–9 Instructions. Your employer should complete either Section 3 of the Employment Eligibility Verification (Form I–9) originally completed for the employee or, if this Section has already been completed or if the version of Employment Eligibility Verification (Form I–9) has expired (check the date in the upper right-hand corner of the form), complete Section 3 of a new Employment Eligibility Verification (Form I–9) using the most current version. Note that your employer may not specify which List A or List C document employees must present, and cannot reject an acceptable receipt.

Can my employer require that I provide any other documentation to prove my status, such as proof of my Syrian citizenship?

No. When completing Employment Eligibility Verification (Form I–9), including re-verifying employment authorization, employers must accept any documentation that appears on the ''Lists of Acceptable Documents'' for Employment Eligibility Verification (Form I–9) that reasonably appears to be genuine and that relates to you, or an acceptable List A, List B, or List C receipt. Employers may not request documentation that does not appear on the ''Lists of Acceptable Documents.'' Therefore, employers may not request proof of Syrian citizenship when completing Employment Eligibility Verification (Form I–9) for new hires or reverifying the employment authorization of current employees. If

presented with EADs that have been automatically extended, employers should accept such EADs as valid List A documents so long as the EADs reasonably appear to be genuine and to relate to the employee. Refer to the Note to Employees section of this Notice for important information about your rights if your employer rejects lawful documentation, requires additional documentation, or otherwise discriminates against you based on your citizenship or immigration status, or your national origin.

What happens after September 30, 2015, for purposes of employment authorization?

After September 30, 2015, employers may no longer accept the EADs that this **Federal Register** Notice automatically extended. Before that time, however, USCIS will issue new EADs to eligible TPS re-registrants who request them. These new EADs will have an expiration date of September 30, 2016, and can be presented to your employer for completion of Employment Eligibility Verification (Form I–9). Alternatively, you may choose to present any other legally acceptable document or combination of documents listed on the Employment Eligibility Verification (Form I–9).

How do my employer and I complete Employment Eligibility Verification (Form I–9) using an automatically extended EAD for a new job?

When using an automatically extended EAD to complete Employment Eligibility Verification (Form I–9) for a new job prior to September 30, 2015, you and your employer should do the following:

1. For Section 1, you should:

a. Check ''An alien authorized to work'';

b. Write your alien number (USCIS number or A-number) in the first space (your EAD or other document from DHS will have your USCIS number or A-number printed on it; the USCIS number is the same as your A-number without the A prefix); and

c. Write the automatically extended EAD expiration date (September 30, 2015) in the second space.

2. For Section 2, employers should record the:

a. Document title;

b. Document number; and

c. Automatically extended EAD expiration date (September 30, 2015).

By September 30, 2015, employers must reverify the employee's employment authorization in Section 3 of the Employment Eligibility Verification (Form I–9).

What corrections should my current employer and I make to Employment Eligibility Verification (Form I–9) if my EAD has been automatically extended?

If you are an existing employee who presented a TPS-related EAD that was valid when you first started your job, but that EAD has now been automatically extended, you and your employer should correct your previously completed Employment Eligibility Verification (Form I–9) as follows:

1. For Section 1, you should:

a. Draw a line through the expiration date in the second space;

b. Write ''September 30, 2015'' above the previous date;

c. Write ''TPS Ext.'' in the margin of Section 1; and

d. Initial and date the correction in the margin of Section 1.

2. For Section 2, employers should:

a. Draw a line through the expiration date written in Section 2;

b. Write ''September 30, 2015'' above the previous date;

c. Write ''TPS Ext.'' in the margin of Section 2; and

d. Initial and date the correction in the margin of Section 2.

By September 30, 2015, when the automatic extension of EADs expires, employers must reverify the employee's employment authorization in Section 3.

If I am an employer enrolled in E-Verify, what do I do when I receive a ''Work Authorization Documents Expiration'' alert for an automatically extended EAD?

If you are an employer who participates in E-Verify and you have an employee who is a TPS beneficiary who provide a TPS-related EAD when he or she first started working for you, you will receive a ''Work Authorization Documents Expiring'' case alert when this EAD is about to expire. Usually, this message is an alert to complete Section 3 of the Employment Eligibility Verification (Form I–9) to reverify an employee's employment authorization. For existing employees with TPS-related EADs that have been automatically extended, employers should dismiss this alert by clicking the red ''X'' in the ''dismiss alert'' column and follow the instructions above explaining how to correct the Employment Eligibility Verification (Form I–9). By September 30, 2015, employment authorization must be reverified in Section 3. Employers should never use E-Verify for reverification.

Note to All Employers

Employers are reminded that the laws requiring proper employment eligibility verification and prohibiting unfair immigration-related employment practices remain in full force. This Notice does not supersede or in any way limit applicable employment verification rules and policy guidance, including those rules setting forth re-verification requirements. For general questions about the employment eligibility verification process, employers may call USCIS at 888–464–4218 (TTY for the hearing impaired is at 877–875–6028) or email USCIS at *I-9Central@dhs.gov.* Calls and emails are accepted in English and many other languages. For questions about avoiding discrimination during the employment eligibility verification process (I–9 and E-Verify), employers may also call the U.S. Department of Justice, Office of Special Counsel for Immigration-Related Unfair Employment Practices (OSC) Employer Hotline at 800–255–8155 (TTY 800–237–2515), which offers language interpretation in numerous languages, or email OSC at *osccrt@usdoj.gov.*

Note to Employees

For general questions about the employment eligibility verification process, employees may call USCIS at 888–897–7781 (TTY for the hearing impaired is at 877–875–6028) or email at *I-9Central@dhs.gov*. Calls are accepted in English, Spanish and many other languages. Employees or applicants may also call the OSC Worker Information Hotline at 800–255–7688 (TTY 800–237–2515) for information regarding employment discrimination based upon citizenship status, immigration status, or national origin related to Employment Eligibility Verification (Form I–9) and E-Verify. The OSC Worker Information Hotline provides language interpretation in numerous languages.

To comply with the law, employers must accept any document or combination of documents from the List of Acceptable Documents if the documentation reasonably appears to be genuine and to relate to the employee, or an acceptable List A, List B, or List C receipt as described in the *Employment Eligibility Verification* (Form I–9) Instructions. Employers may not require extra or additional documentation beyond what is required for Employment Eligibility Verification (Form I–9) completion. Further, employers participating in E-Verify who receive an E-Verify case result of ''Tentative Nonconfirmation'' (TNC) must promptly inform employees of the TNC and give such employees an opportunity to contest the TNC. A TNC case result means that the information

entered into E-Verify from Employment Eligibility Verification (Form I–9) differs from federal or state government records. Employers may not terminate, suspend, delay training, withhold pay, lower pay or take any adverse action against an employee based on the employee's decision to contest a TNC or because the case is still pending with E-Verify. A Final Nonconfirmation (FNC) case result is received when E-Verify cannot verify an employee's employment eligibility. An employer may terminate employment based on a case result of FNC. Work-authorized employees who receive an FNC may call USCIS for assistance at 888–897–7781 (TTY for the hearing impaired is at 877–875–6028). To report an employer that discriminates against an employee in the E-Verify process based on citizenship or immigration status, or based on national origin, contact OSC's Worker Information Hotline at 800–255–7688 (TTY 800–237–2515). Additional information about proper nondiscriminatory Employment Eligibility Verification (Form I–9) and E-Verify procedures is available on the OSC Web site at *http://www.justice.gov/crt/about/osc/* and the USCIS Web site at *http://www.dhs.gov/E-verify*.

Note Regarding Federal, State, and Local Government Agencies (Such as Departments of Motor Vehicles)

While Federal government agencies must follow the guidelines laid out by the Federal government, state and local government agencies establish their own rules and guidelines when granting certain benefits. Each state may have different laws, requirements, and determinations about what documents you need to provide to prove eligibility for certain benefits. Whether you are applying for a Federal, state, or local government benefit, you may need to provide the government agency with documents that show you are a TPS beneficiary and/or show you are authorized to work based on TPS. Examples of such documents are:

(1) Your unexpired EAD that has been automatically extended, or your EAD that has not expired;

(2) A copy of this **Federal Register** Notice if your EAD is automatically extended under this Notice;

(3) A copy of your Application for Temporary Protected Status Notice of Action (Form I–797) for this re-registration;

(4) A copy of your past or current Application for Temporary Protected Status Notice of Action (Form I–797), if you received one from USCIS; and/or

(5) If there is an automatic extension of work authorization, a copy of the fact sheet from the USCIS TPS Web site that provides information on the automatic extension.

Check with the government agency regarding which document(s) the agency will accept. You may also provide the agency with a copy of this **Federal Register** Notice.

Some benefit-granting agencies use the USCIS Systematic Alien Verification for Entitlements Program (SAVE) to verify the current immigration status of applicants for public benefits. If such an agency has denied your application based solely or in part on a SAVE response, the agency must offer you the opportunity to appeal the decision in accordance with the agency's procedures. If the agency has received and acted upon or will act upon a SAVE verification and you do not believe the response is correct, you may make an InfoPass appointment for an in-person interview at a local USCIS office. Detailed information on how to make corrections, make an appointment, or submit a written request can be found at the SAVE Web site at *http://www.uscis.gov/save,* then by choosing ''How to Correct Your Records'' from the menu on the right.

[FR Doc. 2014–30871 Filed 1–2–15; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R2–ES–2014–N245; FXES11130200000–156–FF02ENEH00]

Endangered and Threatened Species Permit Applications

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of applications; request for public comment.

SUMMARY: We, the U.S. Fish and Wildlife Service, invite the public to comment on the following applications to conduct certain activities with endangered or threatened species. The Endangered Species Act of 1973, as amended (Act), prohibits activities with endangered and threatened species unless a Federal permit allows such activities. Both the Act and the National Environmental Policy Act require that we invite public comment before issuing these permits.

DATES: To ensure consideration, written comments must be received on or before February 4, 2015.

ADDRESSES: Susan Jacobsen, Chief, Division of Classification and Restoration, by U.S. mail at Division of Classification and Recovery, U.S. Fish and Wildlife Service, P.O. Box 1306, Albuquerque, NM 87103; or by telephone at 505–248–6920. Please refer to the respective permit number for each application when submitting comments.

FOR FURTHER INFORMATION CONTACT: Susan Jacobsen, Chief, Division of Classification and Restoration, by U.S. mail at P.O. Box 1306, Albuquerque, NM 87103; or by telephone at 505–248–6665.

SUPPLEMENTARY INFORMATION:

Public Availability of Comments

The Act (16 U.S.C. 1531 *et seq.*) prohibits activities with endangered and threatened species unless a Federal permit allows such activities. Along with our implementing regulations in the Code of Federal Regulations (CFR) at 50 CFR part 17, the Act provides for permits, and requires that we invite public comment before issuing these permits. A permit granted by us under section 10(a)(1)(A) of the Act authorizes applicants to conduct activities with U.S. endangered or threatened species for scientific purposes, enhancement of survival or propagation, or interstate commerce. Our regulations regarding implementation of section 10(a)(1)(A) permits are found at 50 CFR 17.22 for endangered wildlife species, 50 CFR 17.32 for threatened wildlife species, 50 CFR 17.62 for endangered plant species, and 50 CFR 17.72 for threatened plant species.

Applications Available for Review and Comment

We invite local, State, Tribal, and Federal agencies and the public to comment on the following applications. Please refer to the appropriate permit number (*e.g.,* Permit No. TE–123456) when requesting application documents and when submitting comments.

Documents and other information the applicants have submitted with these applications are available for review, subject to the requirements of the Privacy Act (5 U.S.C. 552a) and Freedom of Information Act (5 U.S.C. 552).

Permit TE–022190

Applicant: Arizona–Sonora Desert Museum, Tucson, Arizona.

Applicant requests an amendment to a current permit for research and recovery purposes to collect from the wild and conduct pollination research on 24 Kearney's bluestar (*Amsonia kearneyana*) from the wild in Arizona.

Permit TE–123070

Applicant: Susana Morales, Tucson, Arizona.

Applicant requests a renewal to a current permit for research and recovery purposes to conduct presence/absence surveys of the following species within Arizona:

- Lesser long-nosed bat (*Leptonycteris yerbabuenae*)
- Interior least tern (*Sterna antillarum*)
- Northern aplomado falcon (*Falco femoralis*)
- Piping plover (*Charadrius melodus*)
- Red-cockaded woodpecker (*Picoides borealis*)

Permit TE–802211

Applicant: Texas State University, San Marcos, Texas.

Applicant requests a renewal to a current permit for research and recovery purposes to conduct presence/absence surveys for fountain darter (*Etheostoma fonticola*), San Marcos salamander (*Eurycea nana*), and Texas blind salamander (*Eurycea rathbuni*) within Texas.

Permit TE–51928B

Applicant: Kevin Moczygemba, San Antonio, Texas.

Applicant requests a new permit for research and recovery purposes to conduct presence/absence surveys for golden-cheeked warbler (*Dendroica chrysoparia*) within Texas.

Permit TE–055419

Applicant: Turner Biological Consulting, Buffalo Gap, Texas.

Applicant requests a renewal to a current permit for research and recovery purposes to conduct presence/absence surveys of the following species in Texas:

- Attwater's greater-prairie chicken (*Tympanuchus cupido attwateri*)
- Black-capped vireo (*Vireo atricapilla*)
- Eskimo curlew (*Numenius borealis*)
- Golden-cheeked warbler (*Dendroica chrysoparia*)
- Interior least tern (*Sterna antillarum*)
- Northern aplomado falcon (*Falco femoralis*)
- Piping plover (*Charadrius melodus*)
- Red-cockaded woodpecker (*Picoides borealis*)

Permit TE–51929B

Applicant: Timothy Clark, Austin, Texas.

Applicant requests a new permit for research and recovery purposes to conduct presence/absence surveys for the following species within Texas:

- Bee Creek Cave harvestman (*Texella reddelli*)
- Black-capped vireo (*Vireo atricapilla*)
- Bone Cave harvestman (*Texella reyesi*)
- Braken Bat Cave meshweaver (*Cicurina venii*)
- Coffin Cave mold beetle (*Batrisodes texanus*)
- Cokendolpher Cave harvestman (*Texella cokendolpheri*)
- Golden-cheeked warbler (*Dendroica chrysoparia*)
- Government Canyon Bat Cave meshweaver (*Cicurina vespera*)
- Government Canyon Bat Cave spider (*Neoleptoneta microps*)
- Ground beetle (Unnamed) (*Rhadine exilis*)
- Ground beetle (Unnamed) (*Rhadine infernalis*)
- Helotes mold beetle (*Batrisodes venyivi*)
- Kretschmarr Cave mold beetle (*Texamaurops reddelli*)
- Madla Cave meshweaver (*Cicurina madla*)
- Robber Baron Cave meshweaver (*Cicurina baronia*)
- Tooth Cave ground beetle (*Rhadine persephone*)
- Tooth Cave pseudoscorpion (*Tartarocreagris texana*)
- Tooth Cave spider (*Neoleptoneta* (=*Leptoneta*) *myopica*)

Permit TE–52561B

Applicant: Trevor Teague, Sallisaw, Oklahoma.

Applicant requests a new permit for research and recovery purposes to conduct presence/absence surveys of American burying beetle (*Nicrophorus americanus*) within Arkansas, Kansas, Oklahoma, and Texas.

Permit TE–52562B

Applicant: Andrew Turner, Tulsa, Oklahoma.

Applicant requests a new permit for research and recovery purposes to conduct presence/absence surveys of American burying beetle (*Nicrophorus americanus*) within Arkansas, Kansas, Oklahoma, and Texas.

Permit TE–59580A

Applicant: Rocky Mountain Ecology, Durango, Colorado

Applicant requests an amendment to a current permit for research and recovery purposes to conduct presence/absence surveys of New Mexico meadow jumping mouse (*Zapus hudsonius luteus*) within New Mexico and Colorado and Rio Grande silvery minnow (*Hybognathus amarus*) within New Mexico.

Permit TE–776123

Applicant: Texas A&M University, Galveston, Texas.

Applicant requests a renewal to a current permit for research and recovery purposes to conduct presence/absence surveys, stranding activities, holding, blood collection, and rehabilitation for Kemp's ridley (*Lepidochelys kempii*), hawksbill (*Eretmochelys imbricata*), and leatherback (*Dermochelys coriacea*) sea turtles within Texas.

Permit TE–52816B

Applicant: David Davis, Buffalo Gap, Texas.

Applicant requests a new permit for research and recovery purposes to conduct presence/absence surveys of the following species in Texas:

- Attwater's greater-prairie chicken (*Tympanuchus cupido attwateri*)
- Black-capped vireo (*Vireo atricapilla*)
- Eskimo curlew (*Numenius borealis*)
- Golden-cheeked warbler (*Dendroica chrysoparia*)
- Interior least tern (*Sterna antillarum*)
- Northern aplomado falcon (*Falco femoralis*)
- Ocelot (*Leopardus pardalis*)
- Piping plover (*Charadrius melodus*)
- Red-cockaded woodpecker (*Picoides borealis*)
- Whooping crane (*Grus americana*)

Permit TE–52820B

Applicant: Vonceil Harmon, Norman, Oklahoma.

Applicant requests a new permit for research and recovery purposes to conduct presence/absence surveys of American burying beetle (*Nicrophorus americanus*) within Oklahoma.

Permit TE–52821B

Applicant: Dillan Conley, Abilene, Texas.

Applicant requests a new permit for research and recovery purposes to conduct presence/absence surveys of black-capped vireo (*Vireo atricapilla*) within Texas.

Permit TE–195248

Applicant: Michael Morrison, College Station, Texas.

Applicant requests a renewal to a current permit for research and recovery purposes to conduct presence/absence surveys, nest monitoring, and camera surveys of black-capped vireo (*Vireo atricapilla*) and golden-cheeked warbler (*Dedroica chrysoparia*) within Texas.

Permit TE–25609A

Applicant: The Peregrine Fund, Boise, Idaho.

Applicant requests a renewal current permit for research and recovery purposes to conduct the following activities for California condor (*Gymnogyps californianus*) within Arizona, California, Idaho, New Mexico, Nevada, and Utah: Captive breed and

rear; attach radio telemetry devices and wing markers; sample for contaminant analysis and disease detection; assess general health of trapped birds; administer treatment for sick birds; administer vaccines as deemed appropriate; and conduct nest surveys.

National Environmental Policy Act (NEPA)

In compliance with NEPA (42 U.S.C. 4321 *et seq.*), we have made an initial determination that the proposed activities in these permits are categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement (516 DM 6 Appendix 1, 1.4C(1)).

Public Availability of Comments

All comments and materials we receive in response to this request will be available for public inspection, by appointment, during normal business hours at the address listed in the **ADDRESSES** section of this notice.

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 provide this notice under section 10 of the Act (16 U.S.C. 1531 *et seq.*)

Dated: December 19, 2014.

Joy E. Nicholopoulos,

Acting Regional Director, Southwest Region, U.S. Fish and Wildlife Service.

[FR Doc. 2014–30833 Filed 1–2–15; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–HQ–IA–2014–N261: FXIA16710900000–156–FF09A30000]

Endangered Species; Marine Mammals; Issuance of Permits

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of issuance of permits.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), have issued the following permits to conduct certain activities with endangered species, marine mammals, or both. We issue these permits under the Endangered Species Act (ESA) and Marine Mammal Protection Act (MMPA).

ADDRESSES: Brenda Tapia, U.S. Fish and Wildlife Service, Division of Management Authority, Branch of Permits, MS: IA, 5275 Leesburg Pike, Falls Church, VA 22041; fax (703) 358–2281; or email *DMAFR@fws.gov.*

FOR FURTHER INFORMATION CONTACT: Brenda Tapia, (703) 358–2104 (telephone); (703) 358–2281 (fax); *DMAFR@fws.gov* (email).

SUPPLEMENTARY INFORMATION: On the dates below, as authorized by the provisions of the ESA (16 U.S.C. 1531 *et seq.*), as amended, and/or the MMPA, as amended (16 U.S.C. 1361 *et seq.*), we issued requested permits subject to certain conditions set forth therein. For each permit for an endangered species, we found that (1) The application was filed in good faith, (2) The granted permit would not operate to the disadvantage of the endangered species, and (3) The granted permit would be consistent with the purposes and policy set forth in section 2 of the ESA.

ENDANGERED SPECIES

Permit No.	Applicant	Receipt of application **Federal Register** notice	Permit issuance date
45388B	Michael Telich	79 FR 57968; September 26, 2014	December 2, 2014.
44170B	Brian Quaca	79 FR 60182; October 6, 2014	November 25, 2014.
44172B	Matthew McCann	79 FR 60182; October 6, 2014	November 25, 2014.
45002B	Utah's Hogle Zoo	79 FR 60182; October 6, 2014	November 26, 2014.
42675B	Clyde Peeling's Reptiland	79 FR 62662; October 20, 2014	December 9, 2014.
42547B	Steve Martin's Natural Encounters, Inc.	79 FR 62662; October 20, 2014	December 10, 2014.
47544B	Tracey Cearley	79 FR 63639; October 24, 2014	December 24, 2014.
45536B	Wildlife Conservation Society	79 FR 65980; November 6, 2014	December 11, 2014.
44272A	Lim Morakod	79 FR 68461; November 17, 2014	December 22, 2014.

MARINE MAMMALS

Permit No.	Applicant	Receipt of application **Federal Register** notice	Permit issuance date
032027	Monterey Bay Aquarium	78 FR 52966; August 27, 2013	December 19, 2014.
101713	The Marine Mammal Center	78 FR 65352; October 31, 2013	December 19, 2014.
38835B	Christopher Marshall, Texas A&M University.	79 FR 63639; October 24, 2014	December 3, 2014.

Availability of Documents

Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents to: U.S. Fish and Wildlife Service, Division of Management Authority, Branch of Permits, MS: IA, 5275 Leesburg Pike, Falls Church, VA 22041; fax (703) 358–2281.

Brenda Tapia,

Program Analyst/Data Administrator, Branch of Permits, Division of Management Authority.

[FR Doc. 2014–30805 Filed 1–2–15; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R1–R–2014–N157]; [12560–0000–10137 S3]

Conboy Lake National Wildlife Refuge, Klickitat County, WA; Comprehensive Conservation Plan and Finding of No Significant Impact for Environmental Assessment

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce the availability of our comprehensive conservation plan (CCP) and finding of no significant impact (FONSI) for the environmental assessment (EA) for Conboy Lake National Wildlife Refuge (Refuge). The CCP will guide Refuge management for the next 15 years.

ADDRESSES: You may view, download, or request printed or CD–ROM copies of the CCP and FONSI by the following methods:

Agency Web site: Download the documents at *www.fws.gov/refuge/conboy_lake/.*

Email: mcriver@fws.gov. Include ''Conboy Lake NWR CCP'' in the subject.

Fax: Attn: Conboy Lake NWR CCP, (509) 546–8303.

U.S. Mail and In-Person Viewing or Pickup: Conboy Lake National Wildlife Refuge, 100 Refuge Rd., Glenwood, WA 98619. For more document viewing locations, see ''Public Availability of Documents'' under **SUPPLEMENTARY INFORMATION**.

FOR FURTHER INFORMATION CONTACT: Rich Albers, Refuge Manager, (509) 546–8317 (phone).

SUPPLEMENTARY INFORMATION:

Introduction

With this notice, we finalize the CCP process for the Refuge. We started this process through a notice in the **Federal Register** (76 FR 41286; July 13, 2011). We also released the draft CCP/EA to the public and requested comments in a notice in the **Federal Register** (79 FR 2862; January 16, 2014).

We announce our decision and the availability of the FONSI and the final CCP in accordance with National Environmental Policy Act (40 CFR 1506.6(b)) requirements. We completed an analysis of impacts on the human environment in the draft CCP/EA.

The Refuge was established in 1965 as a sanctuary for migratory birds, primarily waterfowl. The CCP will guide us in managing and administering the Refuge for the next 15 years. We selected Alternative 2 for implementation, as it is described in the final CCP. We made changes and clarifications to the final CCP, where appropriate, to address public comments we received on the draft CCP/EA. A summary of the public comments is included in the final CCP with our responses.

Background

The National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd–668ee) (Refuge Administration Act), as amended by the National Wildlife Refuge System Improvement Act of 1997, requires us to develop a CCP for each national wildlife refuge. The purpose for developing a CCP is to provide refuge managers with a 15-year plan for achieving refuge purposes and contributing toward the mission of the National Wildlife Refuge System, consistent with sound principles of fish and wildlife management, conservation, legal mandates, and our policies. In addition to outlining broad management direction on conserving wildlife and their habitats, CCPs identify compatible wildlife-dependent recreational opportunities available to the public. We will review and update the CCP at least every 15 years in accordance with the Refuge Administration Act.

Selected Alternative

Under our selected alternative, we will control reed canarygrass through water management, haying, mowing, and grazing; prolonged flooding and dewatering will also be used to control reed canarygrass and the bullfrog and bullhead populations. We will create forest openings for target species and prescribed fires, and snags for Lewis woodpeckers and other insectivore and cavity-nesting species.

More areas will open for hiking and wildlife observation under our selected alternative, and more facilities will be developed, such as blinds, to enhance wildlife observation and photography. We will emphasize our interpretive program on the Willard Springs Trail, and the trail will be realigned and lengthened. Environmental education and interpretation media will increase. Hunting will continue to be provided with little change. Hunting will be changed by closure of a little used area for deer hunting. We will establish new tribal partnerships, evaluate archeological sites for National Register of Historic Places eligibility, develop an inadvertent discovery plan, and complete a cultural resources overview. The educational emphasis on the existing National Register of Historic Places site—the Whitcomb-Cole Hewn Log House—will increase. The details of our selected alternative and management actions can be found in the CCP.

Public Availability of Documents

You can view documents at the following libraries:

- Hood River Library, 502 W State St., Hood River, OR 97301.
- White Salmon Valley Community Library, 77 NE Wauna Ave., White Salmon, WA 98672.
- Foley Center Library, Gonzaga University, 502 E Boone Ave., Spokane, WA 99258.

Dated: December 3, 2014.

Hugh Morrison,

Acting Regional Director, Pacific Region, Portland, Oregon.

[FR Doc. 2014–30406 Filed 1–2–15; 9:37 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–HQ–IA–2014–N260; FXIA16710900000–156–FF09A30000]

Endangered Species; Receipt of Applications for Permit

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of applications for permit.

SUMMARY: We, the U.S. Fish and Wildlife Service, invite the public to comment on the following applications to conduct certain activities with endangered species. With some exceptions, the Endangered Species Act (ESA) prohibits activities with listed species unless Federal authorization is acquired that allows such activities.

DATES: We must receive comments or requests for documents on or before February 4, 2015.

ADDRESSES: Brenda Tapia, U.S. Fish and Wildlife Service, Division of Management Authority, Branch of Permits, MS: IA, 5275 Leesburg Pike, Falls Church, VA 22041; fax (703) 358–2281; or email *DMAFR@fws.gov.*

FOR FURTHER INFORMATION CONTACT: Brenda Tapia, (703) 358–2104 (telephone); (703) 358–2281 (fax); *DMAFR@fws.gov* (email).

SUPPLEMENTARY INFORMATION:

I. Public Comment Procedures

A. How do I request copies of applications or comment on submitted applications?

Send your request for copies of applications or comments and materials concerning any of the applications to the contact listed under **ADDRESSES**. Please include the **Federal Register** notice publication date, the PRT-number, and the name of the applicant in your request or submission. We will not consider requests or comments sent to an email or address not listed under **ADDRESSES**. If you provide an email address in your request for copies of applications, we will attempt to respond to your request electronically.

Please make your requests or comments as specific as possible. Please confine your comments to issues for which we seek comments in this notice, and explain the basis for your comments. Include sufficient information with your comments to allow us to authenticate any scientific or commercial data you include.

The comments and recommendations that will be most useful and likely to influence agency decisions are: (1) Those supported by quantitative information or studies; and (2) Those that include citations to, and analyses of, the applicable laws and regulations. We will not consider or include in our administrative record comments we receive after the close of the comment period (see **DATES**) or comments delivered to an address other than those listed above (see **ADDRESSES**).

B. May I review comments submitted by others?

Comments, including names and street addresses of respondents, will be available for public review at the street address listed under **ADDRESSES**. The public may review documents and other information applicants have sent in support of the application unless our allowing viewing would violate the Privacy Act or Freedom of Information Act. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

II. Background

To help us carry out our conservation responsibilities for affected species, and in consideration of section 10(a)(1)(A) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), along with Executive Order 13576, ''Delivering an Efficient, Effective, and Accountable Government,'' and the President's Memorandum for the Heads of Executive Departments and Agencies of January 21, 2009—Transparency and Open Government (74 FR 4685; January 26, 2009), which call on all Federal agencies to promote openness and transparency in Government by disclosing information to the public, we invite public comment on these permit applications before final action is taken.

III. Permit Applications

A. Endangered Species

Applicant: Duke University, Durham, NC; PRT–215717

The applicant requests renewal of the permit to acquire in interstate and foreign commerce and to import biological specimens from various non-human primate species (Order Primates), including all species of lemurids, prosimians, New and Old World monkeys, and apes, for the purpose of scientific research. This notification covers activities to be conducted by the applicant over a 5-year period.

Applicant: Ox Ranch, Uvalde, TX; PRT–10866B

The applicant requests amendment to their existing authorization for interstate and foreign commerce and cull of excess red lechwe (*Kobus leche*) and Eld's deer (*Rucervus eldii*) from their captive heard maintained at their facility, to add Arabian oryx (*Oryx leucoryx*) and Barasingha deer (*Cervus duvaucelii*), for the purpose of enhancement of the survival of the species. This notification covers activities to be conducted by the applicant over a 5-year period.

Applicant: Pueblo Zoo, Pueblo, CO; PRT–54296B

The applicant requests a captive-bred wildlife registration under 50CFR 17.21(g) to enhance the species' propagation or survival. This notification covers activities to be conducted by the applicant over a 5-year period.

Species

Rodrigues fruit bat (*Pteropus rodricensis*)
Swift fox (*Vulpes velox*)
Ring-tailed lemur (*Lemur catta*)
Lesser slow loris (*Nycticebus pygmaeus*)
Maned wolf (*Chrysocyon brachyurus*)
Grevy's zebra (*Equus grevyi*)
African penguin (*Spheniscus demersus*)
San Esteban chuckwalla (*Sauromalus varius*)
Desert tortoise (*Gopherus agassizii*)

Applicant: Steve Couchman, Aransas Pass, TX; PRT–49438B

The applicant requests a captive-bred wildlife registration under 50 CFR 17.21(g) for ring-tailed lemurs (*Lemur catta*), red ruffed lemurs (*Varecia rubra*), and black and white ruffed lemurs (*Varecia variegata*) to enhance the species' propagation or survival. This notification covers activities to be conducted by the applicant over a 5-year period.

Applicant: Brian Beni, Pound Ridge, NY; PRT–173959

The applicant requests a captive-bred wildlife registration under 50 CFR 17.21(g) for Galapagos tortoises (*Geochelone nigra*) to enhance the species' propagation or survival. This notification covers activities to be conducted by the applicant over a 5-year period.

Applicant: Christina Tellez, University of California, Santa Barbara, CA; PRT–48474B

The applicant requests a permit to import biological samples from American crocodiles (*Crocodylus acutus*) in the wild in Belize for the purpose of scientific research. This notification covers activities to be conducted by the applicant over a 3-year period.

Multiple Applicants

The following applicants each request a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus pygargus*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

Applicant: Maurice Holthaus, Tucson, AZ; PRT–46302B
Applicant: Brent Abshire, Cypress, TX; PRT–47547B
Applicant: Edwin Rymut, Fort Atkinson, WI; PRT–46122B
Applicant: James Tolson, Plano, TX; PRT–51550B
Applicant: Martin Lohne, Baltimore, OH; PRT–46366B
Applicant: Browder Graves, Uvalde, TX; PRT–48915B
Applicant: George Hale, San Antonio, TX; PRT–46626B
Applicant: Donald Chumley, Lake Isabella, CA; PRT–54012B
Applicant: Dennis Jordan, Parkland, FL; PRT–54027B

Applicant: Stanley Williams, Houston, TX; PRT–53745B

Brenda Tapia,

Program Analyst/Data Administrator, Branch of Permits, Division of Management Authority.

[FR Doc. 2014–30804 Filed 1–2–15; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLWY910000 L16100000 XX0000]

Notice of Public Meeting; Wyoming Resource Advisory Council

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of public meeting.

SUMMARY: In accordance with the Federal Land Policy and Management Act of 1976 and the Federal Advisory Committee Act of 1972, the U.S. Department of the Interior, Bureau of Land Management (BLM) Wyoming Resource Advisory Council (RAC) will meet as indicated below.

DATES: The meeting is scheduled for Monday, February 2, 2015 (1 to 5:30 p.m.), Tuesday, February 3, 2015 (8 a.m. to 6:30 p.m.), and Wednesday, February 4, 2015 (8 a.m. to noon).

ADDRESSES: The meeting will be held in the conference room at the Holiday Inn, 204 S. 30th St., Laramie, Wyoming.

FOR FURTHER INFORMATION CONTACT: Christian Venhuizen, Wyoming Resource Advisory Council Coordinator, High Plains District Office, 2987 Prospector Drive, Casper, WY 82009; telephone 307–261–7603; email *cvenhuizen@blm.gov.* Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: This 10-member RAC advises the Secretary of the Interior on a variety of management issues associated with public land management in Wyoming.

Planned agenda topics include discussions on regional mitigation, reclamation and implementation of Greater Sage-Grouse plans.

The Tuesday meeting will include a working lunch and dinner. The public may attend the meeting, but food will not be provided. The Wednesday meeting will begin with a public comment period at 8 a.m. The public may also submit written comments to the RAC by emailing *cvenhuizen@blm.gov* or by submitting them at the meeting location to the RAC coordinator. Depending on the number of persons wishing to comment and time available, the time for individual oral comments may be limited. If there are no members of the public interested in speaking, the meeting will move promptly to the next agenda item.

All RAC meetings are open to the public with time allocated for hearing public comments.

Larry Claypool,

Acting State Director.

[FR Doc. 2014–30837 Filed 1–2–15; 8:45 am]

BILLING CODE 4310–22–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NRNHL–17315; 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 December 6, 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 January 20, 2015. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Dated: December 14, 2014.

Alexandra Lord,

Acting Chief, National Register of Historic Places/N National Historic Landmarks Program.

COLORADO

Las Animas County

Coy, Charles E., Homestead, (Homesteading and Ranching Resources of the Purgatoire River Region, Colorado MPS) Address Restricted, Model, 14001164

Hils, Frank and Doll, Christina, Homestead, (Homesteading and Ranching Resources of the Purgatoire River Region, Colorado MPS) Address Restricted, Delhi Valley, 14001165

DISTRICT OF COLUMBIA

District of Columbia

Real Estate Trust Building—Continental Trust Building, 1343 H St., NW., Washington, 14001166

IOWA

Cerro Gordo County

Forest Park Historic District, Roughly bounded by Willow Cr., Crescent & Linden Drs., State St., S. Pierce & N. Taylor Aves., 1st St. SW., Mason City, 14001167

Des Moines County

Downtown Commercial Historic District, Roughly 100–800 blks. Jefferson, Columbia, & Market Sts., Mississippi R., Burlington, 14001168

Lee County

Fort Madison High School, 1812 Ave. F, Fort Madison, 14001169

LOUISIANA

Orleans Parish

Lower Central Business District (Boundary Increase II), 234, 222 Loyola & 1100 Tulane Aves., 300, 306, 308, 310, 314 Rampart, 1111, 935 Gravier & 1010 Common Sts., New Orleans, 14001170

Rault Center, The, 1111 Gravier St., New Orleans, 14001171

Rapides Parish

First United Methodist Church, 2727 Jackson Ave., Alexandria, 14001172

Sabine Parish

Hodges Gardens, 1000 Hodges Loop, Florien, 14001173

Washington Parish

Hicks, Robert ''Bob'', House, 924 E. Robert ''Bob'' Hicks St., Bogalusa, 14001174

MINNESOTA

Morrison County

Bridge No. 4969, TH 115 & BNSFRR over Mississippi R., Camp Ripley, 14001175

NORTH CAROLINA

Henderson County

Flat Rock Historic District (Boundary Increase and Decrease), Roughly bounded by Rutledge, Dunroy & N. Highland Lake

Drs., Kanuga, Little River & W. Blue Ridge Rds., Flat Rock, 14001176

SOUTH DAKOTA

Brule County

Chamberlain Rest Stop Tipi, (Concrete Interstate Tipis of South Dakota MPS) I–90 between exits 263 & 265, Chamberlain, 14001177

Jones County

Murdo State Bank, 205 Main, Murdo, 14001178

Lawrence County

Anderson, Rasmus and Elemine, Homestead Ranch, 11753 Anderson Rd., St. Onge, 14001179

Spearfish Rest Stop Tipi, (Concrete Interstate Tipis of South Dakota MPS) Mi. 1 on I–90, Spearfish, 14001180

McCook County

Salem Rest Stop Tipi—Eastbound, (Concrete Interstate Tipis of South Dakota MPS) Mi. 362.2 on I–90, Salem, 14001181

Salem Rest Stop Tipi—Westbound, (Concrete Interstate Tipis of South Dakota MPS) Mi. 362.7 on I–90, Salem, 14001182

Minnehaha County

Valley Springs Rest Stop Tipi, (Concrete Interstate Tipis of South Dakota MPS) Mi. 412.1 on I–90, Valley Springs, 14001183

Moody County

Drake, Frank and Sarah, Claim House, 23982 466th Ave., Chester, 14001184

Pennington County

Kudrna, Josef and Marie, Homestead and Ranch, 18100 E. SD 44, Scenic, 14001185

Wasta Rest Stop Tipi—Eastbound, (Concrete Interstate Tipis of South Dakota MPS) Mi. 98.6 on I–90, Wasta, 14001186

Wasta Rest Stop Tipi—Westbound, (Concrete Interstate Tipis of South Dakota MPS) Mi. 98.6 on I–90, Wasta, 14001187

Perkins County

Quamman, Ole, House, 400 2nd Ave., Lemmon, 14001188

Roberts County

New Effington Rest Stop Tipi, (Concrete Interstate Tipis of South Dakota MPS) Mi. 250.8 on I–29, New Effington, 14001189

Spink County

Norbeck—Nicholson Carriage House, 910 E. 2nd St., Redfield, 14001190

Union County

Junction City Rest Stop Tipi, (Concrete Interstate Tipis of South Dakota MPS) Mi. 26.6 on I–29, Junction City, 14001191

WISCONSIN

Sauk County

Devil's Lake State Park, S5975 Park Rd., Baraboo, 14001192

[FR Doc. 2014–30884 Filed 1–2–15; 8:45 am]

BILLING CODE 4312–51–P

DEPARTMENT OF JUSTICE

[OMB Number 1121–0336]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Extension of a Currently Approved Collection: Office for Victims of Crime Training and Technical Assistance Center—Trafficking Information Management System (TIMS)

AGENCY: Office for Victims of Crime, Department of Justice.

ACTION: 30-Day notice.

The Department of Justice, Office of Justice Programs, Office for Victims of Crime 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. This proposed information collection was previously published in the **Federal Register** Volume 79, Number 207, page 63941, on October 27, 2014, allowing for a 60 day comment period.

DATES: The purpose of this notice is to allow for an additional 30 days for public comment until February 4, 2015.

FOR FURTHER INFORMATION CONTACT: If you have comments, especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Shelby Jones Crawford, Victim Justice Program Specialist, Office for Victims of Crime, Office of Justice Programs, Department of Justice, 810 7th Street NW., Washington, DC 20530. Written comments and/or suggestions can also be directed to the Office of Management and Budget, Officer of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington, DC 20503 or send to *OIRA_submission@omb.eop.gov.*

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of this Information Collection 1121–0336:

(1) Type of Information Collection: Extension of a currently approved collection.

(2) Title of the Form/Collection: Office for Victims of Crime Training and Technical Assistance Center—Trafficking Information Management System (TIMS).

(3) Agency form number, if any, and the applicable component of the Department sponsoring the collection: NA. Office for Victims of Crime, Office of Justice Programs, Department of Justice.

(4) Affected public who will be asked or required to respond, as well as a brief abstract: Primary: OVC Grantees. Abstract: The current package for OMB approval is designed to simplify performance reporting for OVC grantees through the OVC Trafficking Information Management System (TIMS) Online system, a Web-based database and reporting system for the Victims of Human Trafficking Grant and the Enhanced Collaborative Model Grant initiatives. OVC will require OVC Grantees to use this electronic tool to submit grant performance data, including demographics about human trafficking victims. OVC intends to publish an annual analysis of these data to provide the crime victims' field with stronger evidence for practices and programs.

(5) An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond: There are approximately 35–45 OVC Services to Victims of Human Trafficking Grantees per six-month reporting period. On average, it should take each grantee one hour to seven hours, depending on client case load per reporting period, to enter information into TIMS Online. There are two reporting periods per year.

(6) An estimate of the total public burden (in hours) associated with the collection:

The total annual public burden hours for this information collection are estimated to be 320 (average 40 OVC

grantees * average 4 hours * 2 times per year)].

If additional information is required contact: Jerri Murray, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE., Room 3E.405B, Washington, DC 20530.

Dated: December 29, 2014.

Jerri Murray,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2014–30768 Filed 1–2–15; 8:45 am]

BILLING CODE 4410–18–P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—FieldComm Group, Inc.

Notice is hereby given that, on December 8, 2014, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), FieldComm Group, Inc. (''FieldComm'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the name and principal place of business of the standards development organization and (2) the nature and scope of its standards development activities. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances.

Pursuant to section 6(b) of the Act, the name and principal place of business of the standards development organization is: FieldComm Group, Inc., Austin, TX. The nature and scope of FieldComm's standards development activities are: To build upon existing technologies and develop a single future vision toward harmonization of standards for the process automation industry worldwide. FieldComm will combine the standards development activity previously conducted under the auspices of the HART® Communication Foundation and the Fieldbus Foundation.

The formal transfer to FieldComm of all or substantially all the assets and liabilities of the HART® Communication Foundation and the Fieldbus Foundation was approved by both organizations' boards on August 30, 2014, and will become effective on or before January 1, 2015. The two organizations will operate independently until that time, but will engage in integration planning activities for the transition to FieldComm. Upon completion of such transfers to FieldComm by the two organizations and subject to any other residual state or federal law obligations, both organizations are then expected to cease doing business and will be legally dissolved in early 2015.

Patricia A. Brink,

Director of Civil Enforcement, Antitrust Division.

[FR Doc. 2014–30787 Filed 1–2–15; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Petroleum Environmental Research Forum

Notice is hereby given that, on December 9, 2014, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Petroleum Environmental Research Forum (''PERF'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Qatar Petroleum, Doha, QATAR, has been added as a party to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and PERF intends to file additional written notifications disclosing all changes in membership.

On February 10, 1986, PERF filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to section 6(b) of the Act on March 14, 1986 (51 FR 8903).

The last notification was filed with the Department on July 8, 2014. A notice was published in the **Federal Register** pursuant to section 6(b) of the Act on August 8, 2014 (79 FR 46451).

Patricia A. Brink,

Director of Civil Enforcement, Antitrust Division.

[FR Doc. 2014–30789 Filed 1–2–15; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—IMS Global Learning Consortium, Inc.

Notice is hereby given that, on December 8, 2014, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), IMS Global Learning Consortium, Inc. (''IMS Global'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, CODE—Open University of Japan, Chiba, Japan; Fulton County Schools, Atlanta, GA; Qualcomm Incorporated, San Diego, CA; Scholastic Inc., New York, NY; and TurnItIn, Oakland, CA, have been added as parties to this venture.

Also, Scientia, Cambridge, United Kingdom, has withdrawn as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and IMS Global intends to file additional written notifications disclosing all changes in membership.

On April 7, 2000, IMS Global filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to section 6(b) of the Act on September 13, 2000 (65 FR 55283).

The last notification was filed with the Department on September 18, 2014. A notice was published in the **Federal Register** pursuant to section 6(b) of the Act on October 9, 2014 (79 FR 61098).

Patricia A. Brink,

Director of Civil Enforcement, Antitrust Division.

[FR Doc. 2014–30788 Filed 1–2–15; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—3D PDF Consortium, Inc.

Notice is hereby given that, on December 4, 2014, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), 3D PDF Consortium, Inc. (''3D PDF'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, 3DA Systems Inc., Victoria, British Columbia, Canada, has withdrawn as a party to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and 3D PDF intends to file additional written notifications disclosing all changes in membership.

On March 27, 2012, 3D PDF filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to section 6(b) of the Act on April 20, 2012 (77 FR 23754).

The last notification was filed with the Department on May 30, 2014. A notice was published in the **Federal Register** pursuant to section 6(b) of the Act on June 30, 2014 (79 FR 36821).

Patricia A. Brink,

Director of Civil Enforcement, Antitrust Division.

[FR Doc. 2014–30790 Filed 1–2–15; 8:45 am]

BILLING CODE 4410–11–P

NATIONAL CREDIT UNION ADMINISTRATION

Office of Small Credit Unions (OSCUI) Loan Program Access for Credit Unions

AGENCY: National Credit Union Administration (NCUA).

ACTION: Notice of funding opportunity.

SUMMARY: The National Credit Union Administration (NCUA) is issuing a Notice of Funding Opportunity (NOFO) to invite eligible credit unions to submit applications for participation in the OSCUI Loan Program (a.k.a. Community Development Revolving Loan Fund (CDRLF)), subject to funding availability. The OSCUI Loan Program serves as a source of financial support, in the form of loans, for credit unions serving predominantly low-income members. It also serves as a source of funding to help low-income designated credit unions (LICUs) respond to emergencies arising in their communities.

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C. Eligibility Information
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F. Federal Award Administration
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A. Program Description

The purpose of the OSCUI Loan Program is to assist low-income designated credit unions (LICU) in providing basic financial services to their members to stimulate economic activities in their communities. Through the OSCUI Loan Program, NCUA provides financial support in the form of loans to LICUs. These funds help improve and expand the availability of financial services to these members. The OSCUI Loan Program also serves as a source of funding to help LICUs respond to emergencies. The Loan Program consists of Congressional appropriations that are administered by OSCUI, an office of the NCUA.

Permissible Uses of Funds: NCUA will consider requests for funds consistent with the purpose of the OSCUI Loan Program. 12 CFR 705.1. A non-exhaustive list of examples of permissible uses or projects of loan proceeds are contained in § 705.4 of the regulation, and include: (i) Development of new products or services for members including new or expanded share draft or credit card programs; (ii) Partnership arrangements with community based service organizations or government agencies; (iii) Loan programs, including, but not lmited to, micro business loans, payday loan alternatives, education loans, and real estate loans; (iv) Acquisition, expansion or improvement of office space or equipment, including branch facilities, ATMs, and electronic banking facilities; and (v) Operational programs such as security and disaster recovery.

NCUA will consider other proposed uses of funds that in its sole discretion it determines are consistent with the purpose of the OSCUI Loan Program, the requirements of the regulations, and this NOFO.

Regulation: Part 705 of NCUA's regulations implements the OSCUI Grant and Loan Program. 12 CFR 705. A revised Part 705 was published on November 2, 2011. 76 FR 67583. Additional requirements are found at 12 CFR parts 701 and 741. Applicants should review these regulations in addition to this NOFO. Each capitalized term in this NOFO is more fully defined in the regulations, the loan application, and the loan agreement. For the purposes of this NOFO, an Applicant is a Qualifying Credit Union that submits a complete Application to NCUA under the OSCUI Loan Program.

B. Federal Award Information

OSCUI loans are made to LICUs that meet the requirements in the program regulation and this NOFO, subject to funds availability. OSCUI loans are generally made at lower than market interest rates.

Congress has not made an appropriation to the OSCUI Loan Program for Fiscal Years 2014–2015. NCUA expects to lend approximately $5.2 million under this NOFO, derived from appropriated and earned funds. Monies for additional loans come from scheduled loan amortizations. NCUA reserves the right to: (i) Award more or less than the amount cited above; (ii) fund, in whole or in part, any, all, or none of the applications submitted in response to this NOFO; and (iii) reallocate funds from the amount that is anticipated to be available under this NOFO to other programs, particularly if NCUA determines that the number of awards made under this NOFO is fewer than projected.

The specific terms and conditions governing a loan will be established in the loan documents each Participating Credit Union will sign prior to disbursement of funds. The following are the general loan terms under the program

1. *Maximum Loan Amount:* NCUA expects that most loans made under this NOFO will be in an amount less than or equal to $300,000. NCUA has determined that loans of this size will help maximize allocation of this limited resource among many credit unions. However, NCUA will consider funding requests in excess of $300,000 from Applicants that demonstrate the need and capability to effectively deploy such funding; and have a high probability of realizing significant impact, while maintaining financial and operational soundness. NCUA may consider other factors for the approval of funding requests in excess of $300,000 and will be assessed on a case-by-case basis. See

Section D and E of this NOFO for additional information.

2. *Dates:* The application open period is from January 1, 2015 thru December 31, 2015. Funds may be exhausted prior to this deadline, at which time the programs/funds will no longer be available.

3. *Maturity:* Loans will generally mature in five years. A credit union may request a shorter loan period, but in no case will the term exceed five years.

4. *Interest:* The interest rate on loans is governed by the Loan Interest Rate Policy, which can be found on NCUA's Web site at *http://www.ncua.gov/Resources/OSCUI/Pages/Loans.aspx.*

5. *Repayment:* All loans must be repaid to NCUA regardless of how they are accounted for by the Participating Credit Union.

(a) *Principal:* The entire principal is due at maturity.

(b) *Interest:* Interest is due in semi-annual payments beginning six months after the initial distribution of the loan.

(c) *Principal Prepayment:* There is no penalty for principal prepayment. Principal prepayments may be made as often as monthly.

6. *Renewals:* Not Applicable.

C. Eligibility Information

The regulations specify the requirements a credit union must meet in order to be eligible to apply for assistance under this NOFO. See 12 CFR 705. Following are additional requirements for participating in the Loan Program under this NOFO.

1. *Eligible Applicants:* A credit union must have a Low-Income Credit Union (LICU) designation, or equivalent in the case of a Qualifying State-chartered Credit Union, in order to participate in the OSCUI Grant and Loan Program. Requirements for obtaining the designation are found at 12 CFR 701.34.

2. *Matching Funds:* Part 705.5(g) of NCUA's regulations describe the overall requirements for matching funds. NCUA, in its sole discretion, may require matching funds of an Applicant, on a case-by-case basis depending on the financial condition of the Applicant. NCUA anticipates that most Applicants will not be required to obtain matching funds. However, each Applicant should address in the Application its strategy for raising matching funds if NCUA determines matching funds are required (see 12 CFR part 705 and the Application for additional information).

(a) *Matching Funds Requirements:* The specific terms and covenants pertaining to any matching funds requirement will be provided in the loan agreement of the Participating Credit Union. Following, are general matching requirements. NCUA, in its sole discretion, may amend these requirements depending upon its evaluation of the Applicant, but in no case will the amended requirements be greater than the conditions listed below.

(i) The amount of matching funds required must generally be in an amount equal to the loan amount.

(ii) Matching funds must be from non-governmental member or nonmember share deposits.

(iii) Any loan monies matched by nonmember share deposits are not subject to the 20% limitation on nonmember deposits under § 701.32 of NCUA's regulations.

(iv) Participating Credit Unions must maintain the outstanding loan amount in the total amount of share deposits for the duration of the loan. Once the loan is repaid, nonmember share deposits accepted to meet the matching requirement are subject to § 701.32 of NCUA's regulations.

(b) *Criteria for Requiring Matching Funds:* NCUA will use the following criteria to determine whether to require an Applicant to have matching funds as a condition of its loan.

(i) CAMEL Composite Rating

(ii) CAMEL Management Component Rating

(iii) CAMEL Asset Quality

(iv) Regional Director Concurrence

(v) Net Worth Ratio

(c) *Documentation of Matching Funds:* NCUA may contact the matching funds source to discuss the matching funds and the documentation that the Applicant has provided. If NCUA determines that any portion of the Applicant's matching funds is ineligible under this NOFO, NCUA, in its sole discretion, may permit the Applicant to offer alternative matching funds as a substitute for the ineligible matching funds. In this case: (i) The Applicant must provide acceptable alternative matching funds documentation within 10 business days of NCUA's request.

3. *Other Eligiblity Requirements:*

(a) *Financial Viability:* Applicants must meet the underwriting standards established by NCUA, including those pertaining to financial viability, as set forth in the application and found in 12 CFR 705.6(c).

(b) *Compliance with Past Agreements:* In evaluating funding requests under this NOFO, NCUA will consider an Applicant's record of compliance with past agreements, including any deobligation of funds. NCUA, in its sole discretion, will determine whether to consider an Application from an Applicant with a past record of noncompliance, including any deobligation (*i.e.* removal of unused awards) of funds.

(i) *Default Status:* If an Applicant is in default of a previously executed agreement with NCUA, NCUA will not consider an Application for funding under this NOFO.

(ii) *Undisbursed Funds:* NCUA may not consider an Application if the Applicant is a prior awardee under the OSCUI Grant Program and has unused grant awards as of the date of Application.

D. Application and Submission Information

1. *Application Form:* The application and related documents can be found on NCUA's Web site at *www.ncua.gov/OSCUI/GrantsandLoans.*

2. *Minimum Application Content:* Each Applicant must complete and submit information regarding the applicant and requested funding. In addition, applicants will be required to certify applications prior to submission.

(a) *DUNS Number:* NCUA will not consider an Application that does not include a valid Data Universal Numbering System (DUNS) number issued by Dun and Bradstreet (D&B). Such an Application will be deemed incomplete and will be declined. See Section 3 for additional information.

(b) *Employer Identification Number:* Each Application must include a valid and current Employer Identification Number (EIN) issued by the U.S. Internal Revenue Service (IRS). NCUA will not consider an application that does not include a valid and current EIN. Such an Application will be deemed incomplete and will be declined. Information on how to obtain a EIN may be found on the IRS's Web site at *www.irs.gov.*

(c) *Abbreviated Application:* An Applicant requesting a loan amount of $300,000 or less is permitted to complete a short online application form that limits the amount of required narrative responses. The required narratives will address the proposed use of funds; the credit union's ability to obtain matching funds, if required; and how the credit union will assess the impact of the funding.

(d) *Narrative Responses:* Each Application must include the narratives listed below. Applicants must adhere to character limitations contained in the Application. NCUA will not read or consider narrative comments beyond the limits specified. Additionally, NCUA will read only information requested in the Application and will not read attachments that have not been requested in this NOFO or the Application.

(i) *Use of Funds:* A narrative describing how it intends to use the loan proceeds. The narrative should demonstrate that the loan will enhance the products and services the credit union provides to its members. It also should describe how those enhanced products and services will support the economic development of the community served by the credit union.

(ii) *Matching Funds:* A narrative describing its strategy for raising matching funds from non-federal sources if matching funds are required.

(e) *Large Loans:* An Applicant requesting a loan in excess of $300,000 is required to complete an online application form that contains additional narrative comments supporting such request. The additional narrative consists of a business plan.

(i) *Business Plan:* As detailed in Part 705 of NCUA's regulations, the business plan must: Describe the community's need for financial products and services and the Applicant's need for funding; summarize the services, financial products, and services provided by the Applicant; describe the Applicant's involvement with other entities; describe the credit union's marketing strategy to reach members and the community; and include financial projections.

(f) *Non-federally Insured Applicants:*

(i) *Additional Application Requirements:* Each Applicant that is a non-federally insured, state-chartered credit union must submit additional application materials. These additional materials are more fully described in § 705.6(b)(3) of NCUA's regulations and in the Application.

(ii) *Examination by NCUA:* Non-federally insured, state-chartered credit unions must agree to be examined by NCUA. The specific terms and covenants pertaining to this condition will be provided in the loan agreement of the Participating Credit Union.

3. *Dun and Bradstreet Univeral Numbering System (DUNS) Number and System for Award Management (SAM):* Based on an Office of Management and Budget (OMB) policy directive effective October 31, 2003, credit unions are required to: (i) Be registered in SAM before submitting its application; (ii) provided a valid Data Universal Numbering System (DUNS) number issued by Dun and Bradstreet (D&B); and (iii) continue to maintain an active SAM registration with current information at all times during which it has an active Federal award or an application or plan under consideration. NCUA will not consider an Application that does not include a valid DUNS number. Such an Application will be deemed incomplete and will be declined. Information on how to obtain a DUNS number may be found on D&B's Web site at *http://fedgov.dnb.com/webform* or by calling D&B, toll-free, at 1–866–705–5711.

4. *Submission Dates and Times:* The application open period is from January 1, 2015 thru December 31, 2015. Funds may be exhausted prior to this deadline, at which time the programs/funds will no longer be available.

5. *Other Submission Requirements:* Under this NOFO, Applications must be submitted online at *http://www.cybergrants.com/ncua.*

E. Application Review Information

1. *Review and Selection Process:*

(a) *Eligibility and Completeness Review:* NCUA will review each Application to determine whether it is complete and that the Applicant meets the eligibility requirements described in the Regulations and in this NOFO. An incomplete Application or one that does not meet the eligibility requirements will be declined without further consideration.

(b) *Substantive Review:* After an Applicant is determined eligible and its Application is determined complete, NCUA will conduct a substantive review in accordance with the criteria and procedures described in the Regulations and this NOFO. NCUA reserves the right to contact the Applicant during its review for the purpose of clarifying or confirming information contained in the Application. If so contacted, the Applicant must respond within the time specified by NCUA or NCUA, in its sole discretion, may decline the application without further consideration.

(c) *Evaluation and Scoring:* The evaluation criteria are more fully described in § 705.6 of NCUA's regulations. NCUA will evaluate each Application that receives a substantive review on the four criteria categories described in the regulation: Financial Performance, Compatibility, Feasibility, and Examination Information and Concurrence from Regional Director of Qualifying Credit Unions.

(i) *Assessment of Impact:* The Compatibility criteria will take into consideration the extent of community need and projected impact of the funding on the Applicant's members and community.

(ii) *Effective Strategy:* The Feasibility criteria will take into consideration the quality of the Applicant's strategy and its capacity to execute the strategy as demonstrated by its past performance, partnering relationships, and other relevant factors.

(iii) *Evaluating Prior Award Performance:* For prior participants of the OSCUI Grant and Loan Program, loans may not be awarded if the participant: (1) Is noncompliant with any active award; (2) failed to make timely loan payments to NCUA during fiscal years prior to the date of Application; and (3) had an award deobligated (*i.e.* removal of unused awarded funds) during fiscal years prior to the date of Application.

(d) *Input from Examiners:* NCUA will not approve an award to a credit union for which its NCUA regional examining office or State Supervisory Agency (SSA), if applicable, indicates it has safety and soundness concerns. If the NCUA regional office or SSA identifies a safety and soundness concern, OSCUI, in conjunction with the regional office or SSA, will assess whether the condition of the Applicant is adequate to undertake the activities for which funding is requested, and the obligations of the loan and its conditions. NCUA, in its sole discretion, may defer decision on funding an Application until the credit union's safety and soundness conditions improve.

(e) *Funding Selection:* NCUA will make its funding selections based on a consistent scoring tier where each applicant will receive an individual score. NCUA will consider the impact of the funding. In addition, NCUA may consider the geographic diversity of the Applicants in its funding decisions. When loan demand is high applications will be ranked based on the aforementioned.

F. Federal Award Administration

1. *Federal Award Notices:* NCUA will notify each Applicant of its funding decision. Notification will generally be by email. Applicants that are approved for funding will also receive instructions on how to proceed with disbursement of the loan.

2. *Administrative and National Policy Requirements:*

(a) *Loan Agreements:* Each Participating Credit Union under this NOFO must enter into agreement with NCUA before NCUA will disburse loan funds. The agreement documents include, for example, a promissory note, loan agreement, and security agreement (if applicable). The Loan Agreement will include the terms and conditions of funding, including but not limited to the: (i) Loan amount; (ii) interest rate; (iii) repayment requirements; (iv) accounting treatment; (v) impact measures; and (vi) reporting requirements.

(b) *Failure to Sign Agreement:* NCUA, in its sole discretion, may rescind a loan offer if the Applicant fails to return the signed loan documents and/or any other requested documentation, within the time specified by NCUA.

(c) *Multiple Disbursements:* NCUA may determine, in its sole discretion, to fund a loan in multiple disbursements. In such cases, the process for disbursement will be specified by NCUA in the Loan Agreement.

3. *Reporting:* Annually, each Participating Credit Union will submit an annual report to NCUA. The report will address the Participating Credit Union's use of the loan funds; the impact of funding; and explanation of any failure to meet objectives for use of proceeds, outcome, or impact. NCUA, in its sole discretion, may modify these requirements. However, such reporting requirements will be modified only after notice to affected credit unions.

Report Form: Applicable credit unions will be notified regarding the submission of the report form. A Participating Credit Union is responsible for timely and complete submission of the report. NCUA will use such information to monitor each Participating Credit Union's compliance with the requirements of its loan agreement and to assess the impact of the OSCUI Loan Program.

G. Agency Contacts

1. Methods of Contact: Further information can be found at: *www.ncua.gov/OSCUI/grantsandloans.* For questions email: National Credit Union Administration, Office of Small Credit Union Initiatives at *OSCUIAPPS@ncua.gov.*

2. *Information Technology Support:* People who have visual or mobility impairments that prevent them from using NCUA's Web site should call (703) 518–6610 for guidance (this is not a toll free number).

Authority: 12 U.S.C. 1756, 1757(5)(D), and (7)(I), 1766, 1782, 1784, 1785 and 1786; 12 CFR 705.

By the National Credit Union Administration Board on December 29, 2014.

Jon Canerday,

Acting Secretary of the Board.

[FR Doc. 2014–30867 Filed 1–2–15; 8:45 am]

BILLING CODE 7535–01–P

NATIONAL CREDIT UNION ADMINISTRATION

Office of Small Credit Unions (OSCUI) Grant Program Access for Credit Unions

AGENCY: National Credit Union Administration (NCUA).

ACTION: Notice of Funding Opportunity.

SUMMARY: The National Credit Union Administration (NCUA) is issuing a Notice of Funding Opportunity (NOFO) to invite eligible credit unions to submit applications for participation in the OSCUI Grant Program (a.k.a. Community Development Revolving Loan Fund (CDRLF)), subject to funding availability. The OSCUI Grant Program serves as a source of financial support, in the form of technical assistance grants, for credit unions serving predominantly low-income members. It also serves as a source of funding to help low-income designated credit unions (LICUs) respond to emergencies arising in their communities.

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A. Program Description

The purpose of the OSCUI Grant Program is to assist low-income designated credit unions (LICU) in providing basic financial services to their low-income members to stimulate economic activities in their communities. Through the OSCUI Grant Program, NCUA provides financial support in the form of technical assistance grants to LICUs. These funds help improve and expand the availability of financial services to these members. The OSCUI Grant Program also serves as a source of funding to help LICUs respond to emergencies. The Grant Program consists of Congressional appropriations that are administered by OSCUI, an office of the NCUA.

From February 2, 2015 to March 3, 2015 OSCUI will accept applications from credit unions under the first 2015 grant round. The first grant round will include initiatives for Student Interns and Training for Staff and Volunteers.

OSCUI intends to offer additional grant round funding throughout the year under this NOFO. Information about the OSCUI Grant Program, including more details regarding the first 2015 grant round, other funding initiatives, amount of funds available, funding priorities, permissible uses of funds, funding limits, deadlines and other pertinent details, are periodically published in NCUA Letters to Credit Unions, in the OSCUI e-newsletter and on the NCUA Web site at *http://www.ncua.gov/Resources/OSCUI/Pages/Grants.aspx.*

Permissible Uses of Funds: NCUA will consider requests for funds consistent with the purpose of the OSCUI Grant Program. 12 CFR 705.1. Per § 705.10 of the regulation permissible uses for the grant fund include: (i) Development of new products or services for members including new or expanded share draft or credit card programs; (ii) Partnership arrangements with community based service organizations or government agencies; (iii) Enhancement and support of credit union internal capacity to serve its members and better enable it to provide financial services to the community in which the credit union is located.

NCUA will consider other proposed uses of funds that in its sole discretion it determines are consistent with the purpose of the OSCUI Grant Program, the requirements of the regulations, and this NOFO.

Regulation: Part 705 of NCUA's regulations implements the OSCUI Grant and Loan Program. 12 CFR 705. A revised Part 705 was published on November 2, 2011. 76 FR 67583. Additional requirements are found at 12 CFR parts 701 and 741. Applicants should review these regulations in addition to this NOFO. Each capitalized term in this NOFO is more fully defined in the regulations and grant guidelines. For the purposes of this NOFO, an Applicant is a Qualifying Credit Union that submits a complete Application to NCUA under the OSCUI Grant Program.

B. Federal Award Information

OSCUI grants are made to LICUs that meet the requirements in the program regulation and this NOFO, subject to funds availability.

Funds Availability: Congress appropriated $2 million to the OSCUI Grant Program for Fiscal Years 2015–2016. NCUA expects to award the entire amount appropriated under this NOFO. NCUA reserves the right to: (i) Award more or less than the amount appropriated; (ii) fund, in whole or in part, any, all, or none of the applications submitted in response to this NOFO; and (iii) reallocate funds from the amount that is anticipated to be available under this NOFO to other programs, particularly if NCUA determines that the number of awards

made under this NOFO is fewer than projected.

C. Eligibility Information

The regulations specify the requirements a credit union must meet in order to be eligible to apply for assistance under this NOFO. See 12 CFR 705.

1. *Eligible Applicants:* A credit union must have a Low-Income Credit Union (LICU) designation, or equivalent in the case of a Qualifying State-chartered Credit Union, in order to participate in the OSCUI Grant and Loan Program. Requirements for obtaining the designation are found at 12 CFR 701.34.

D. Application and Submission Information

1. *Application Form:* The application and related documents can be found on NCUA's Web site at *www.ncua.gov/OSCUI/GrantsandLoans.*

2. *Minimum Application Content:* Each Applicant must complete and submit information regarding the applicant and requested funding. In addition, applicants will be required to certify applications prior to submission.

(a) *DUNS Number:* Based on an Office of Management and Budget (OMB) policy directive effective October 31, 2003, credit unions must have a Data Universal Numbering System (DUNS) number issued by Dun and Bradstreet (D&B) in order to be eligible to receive funding from the OSCUI Grant Program. NCUA will not consider an Application that does not include a valid DUNS number. Such an Application will be deemed incomplete and will be declined. Information on how to obtain a DUNS number may be found on D&B's Web site at *http://fedgov.dnb.com/webform* or by calling D&B, toll-free, at 1–866–705–5711.

(b) *Employer Identification Number:* Each Application must include a valid and current Employer Identification Number (EIN) issued by the U.S. Internal Revenue Service (IRS). NCUA will not consider an application that does not include a valid and current EIN. Such an Application will be deemed incomplete and will be declined. Information on how to obtain a EIN may be found on the IRS's Web site at *www.irs.gov*.

(c) *Submission of Application:* Under this NOFO, Applications must be submitted online at *http://www.cybergrants.com/ncua.* An Applicant requesting a grant must complete an online grant application form which includes required responses. The required responses will address the proposed use of funds and how the credit union will assess the impact of the funding.

3. *Submission Dates and Times:* There will be various application open periods from January 1, 2015 thru December 31, 2015 for different grant initiatives offered thoughout the year. For each initiative funds may be exhausted prior to the deadlines, at which time the programs/funds will no longer be available.

4. *Intergovernmental Review:* Not Applicable.

5. *Other Submission Requirments:* Under this NOFO, Applications must be submitted online at *http://www.cybergrants.com/ncua.*

a. Disclosure Agreement

b. Mandatory Clauses

E. Application Review Information

1. *Review and Selection Process:*

(a) *Eligibility and Completeness Review:* NCUA will review each Application to determine whether it is complete and that the Applicant meets the eligibility requirements described in the Regulations, this NOFO, and the grant guidelines. An incomplete Application or one that does not meet the eligibility requirements will be declined without further consideration.

(b) *Substantive Review:* After an Applicant is determined eligible and its Application is determined complete, NCUA will conduct a substantive review in accordance with the criteria and procedures described in the Regulations, this NOFO, and the grant guidelines. NCUA reserves the right to contact the Applicant during its review for the purpose of clarifying or confirming information contained in the Application. If so contacted, the Applicant must respond within the time specified by NCUA or NCUA, in its sole discretion, may decline the application without further consideration.

(c) *Evaluation and Scoring:* The evaluation criteria for each initiative will be more fully described in the grant guidelines.

(d) *Input from Examiners:* NCUA will not approve an award to a credit union for which its NCUA regional examining office or State Supervisory Agency (SSA), if applicable, indicates it has safety and soundness concerns. If the NCUA regional office or SSA identifies a safety and soundness concern, OSCUI, in conjunction with the regional office or SSA, will assess whether the condition of the Applicant is adequate to undertake the activities for which funding is requested, and the obligations of the loan and its conditions. NCUA, in its sole discretion, may defer decision on funding an Application until the credit union's safety and soundness conditions improve.

(e) *Award Selection:* In general, NCUA will make its award selections based on a consistent scoring system where each applicant will receive an individual score. NCUA will consider the impact of the funding. When grant demand is high applications may be ranked based on the aforementioned in addition to factors listed in the grant guidelines.

2. *Anticipated Announcement and Federal Award Dates:* See part D.3.

F. Federal Award Administration Information

1. *Notice of Award:* NCUA will notify each Applicant of its funding decision. Notification will generally be by email. Applicants that are approved for funding will also receive instructions on how to proceed with the reimbursement request for disbursement of funds.

2. *Administration and National Policy Requirements:* The specific terms and conditions governing a grant will be established in the grant guidelines for each initiative.

3. *Reporting:* Each awarded credit union must submit a reimbursement request in order to receive the awarded funds. The reimbursement requirements are specific to each initiative. In general, the reimbursement request will require an explanation of the impact of funding and any success or failure to meet objectives for use of proceeds, outcome, or impact. NCUA, in its sole discretion, may modify these requirements.

G. Agency Contacts

1. *Methods of Contact:* Further information can be found at: *http://www.ncua.gov/Resources/OSCUI/Pages/GLMain.aspx*. For questions email: National Credit Union Administration, Office of Small Credit Union Initiatives at *OSCUIAPPS@ncua.gov*.

2. *Information Technology Support:* People who have visual or mobility impairments that prevent them from using NCUA's Web site should call (703) 518–6610 for guidance (this is not a toll free number).

Authority: 12 U.S.C. 1756, 1757(5)(D), and (7)(I), 1766, 1782, 1784, 1785 and 1786; 12 CFR 705.

By the National Credit Union Administration Board on December 29, 2014.

Jon Canerday,

Acting Secretary of the Board.

[FR Doc. 2014–30866 Filed 1–2–15; 8:45 am]

BILLING CODE 7535–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2014–0277]

Guidance for ITAAC Closure

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–1316, ''Guidance for ITAAC Closure Under 10 CFR part 52'' (ML14258B182). This guidance is proposed revision 2 of regulatory guide (RG) 1.215 (ML112580018). It has been revised to incorporate additional information related to inspections, tests, analysis, and acceptance criteria (ITAAC) maintenance, lessons learned from simulated ITAAC implementation, changes to the information and formatting guidance for uncompleted ITAAC notifications, and other enhancements. The revised guidance approves for use updated industry guidelines which contain additional information and examples of ITAAC closure notifications discussed during numerous public meetings between the NRC and industry since Revision 1 of RG 1.215 was issued. The guide describes a method that the staff of the NRC considers acceptable for use in satisfying the requirements for documenting the completion of ITAAC.

DATES: Submit comments by March 6, 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 specific subject):

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2014–0277. Address questions about NRC dockets to Carol Gallagher; telephone: 301–287–3422; email: *Carol.Gallagher@nrc.gov.* For technical questions, contact the individuals listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *Mail comments to:* Cindy Bladey, Chief, Rules, Announcements, and Directives Branch (RADB), Office of Administration, Mail Stop: 3WFN 06A–A44M, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

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

FOR FURTHER INFORMATION CONTACT: James Gaslevic, Office of New Reactors, telephone: 301–415–2276, email: *James.Gaslevic@nrc.gov,* or Stephen Burton, Office of Nuclear Regulatory Research, telephone: 301–415–7000, email: *Stephen.Burton@nrc.gov;* U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2014–0277 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–2014–0277.
- *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.

B. Submitting Comments

Please include Docket ID NRC–2014–0277 in the subject line of your comment submission, in order to ensure that the NRC is able to make your comment submission available to the public in this docket.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC 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 that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment submissions into ADAMS.

II. Additional Information

The NRC is issuing for public comment a draft guide in the NRC's ''Regulatory Guide'' series. This series was developed to describe and make available to the public such information as methods that are acceptable to the NRC staff for implementing specific parts of the NRC's regulations, techniques that the staff uses in evaluating specific problems or postulated accidents, and data that the staff needs in its review of applications for permits and licenses.

The draft regulatory guide, entitled, ''Guidance for ITAAC Closure Under 10 CFR part 52,'' is temporarily identified by its task number, DG–1316. DG–1316 is proposed revision 2 of Regulatory Guide 1.215. The guide describes a method that the staff of the NRC considers acceptable for use in satisfying the requirements for documenting the completion of ITAAC for the implementation of Section 52.99 of Title 10 of the *Code of Federal Regulations* (10 CFR) ''Inspection during construction.''

Revision 2 of RG 1.215 approves for use Nuclear Energy Institute (NEI) 08–01, ''Industry Guideline for the ITAAC Closure Process under 10 CFR part 52,'' Revision 5—Corrected (ML14182A160). NEI 08–01, Revision 5—Corrected, was updated to provide additional requirements related to ITAAC maintenance, lessons learned from simulated ITAAC implementation, changes to the information and formatting guidance for uncompleted ITAAC notifications, and other enhancements. The revised industry guidelines also contain additional information and examples of ITAAC closure notifications which were

discussed during numerous public meetings between the NRC and industry.

III. Backfitting and Issue Finality

This draft regulatory guide would approve for use updated industry guidance for ITAAC closure, including the different kinds of ITAAC notifications required by 10 CFR 52.99. Issuance of this regulatory guide in final form would not be inconsistent with the issue finality provisions in 10 CFR part 52. As discussed in the ''Implementation'' section of this regulatory guide, the NRC has no current intention to impose this draft regulatory guide on current holders of combined licenses. In addition, the matters in this draft regulatory guide do not appear to be within the matters subject to issue finality protection under 10 CFR 52.83 or 10 CFR 52.98.

Therefore, any imposition of this draft regulatory guide on current holders of combined licenses, or current and future applicants for combined licenses, would not be inconsistent with any issue finality protection under 10 CFR 52.83 or 10 CFR 52.98.

Dated at Rockville, Maryland, this 29th day of December, 2014.

For the Nuclear Regulatory Commission.

Harriet Karagiannis,

Acting Chief, Regulatory Guide and Generic Issues Branch, Division of Engineering, Office of Nuclear Regulatory Research.

[FR Doc. 2014–30834 Filed 1–2–15; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Sunshine Act Meeting Notice

DATES: January 5, 12, 19, 26, February 2, 9, 2015.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public

Week of January 5, 2015

There are no meetings scheduled for the week of January 5, 2015.

Week of January 12, 2015—Tentative

There are no meetings scheduled for the week of January 12, 2015.

Week of January 19, 2015—Tentative

There are no meetings scheduled for the week of January 19, 2015

Week of January 26, 2015—Tentative

Thursday, January 29, 2015

9:00 a.m. Briefing on Foreign Ownership, Control, and Domination (Public Meeting) (Contact: Shawn Harwell, 301–415–1309)

This meeting will be webcast live at the Web address—*http://www.nrc.gov/.*

Week of February 2, 2015—Tentative

Monday, February 2, 2015

1:00 p.m. Discussion of International Activities (Closed—Ex. 9)

Wednesday, February 4, 2015

8:30 a.m. Hearing on Combined License for Fermi, Unit 3 (Public Meeting) (Contact: Adrian Muniz, 301–415–4093)

This meeting will be webcast live at the Web address—*http://www.nrc.gov/.*

Week of February 9, 2015—Tentative

There are no meetings scheduled for the week of February 9, 2015

* * * * *

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.*

* * * * *

The NRC Commission Meeting Schedule can be found on the Internet at: *http://www.nrc.gov/public-involve/public-meetings/schedule.html.*

* * * * *

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.

* * * * *

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 31, 2014.

Glenn Ellmers,

Policy Coordinator, Office of the Secretary.

[FR Doc. 2014–30944 Filed 12–31–14; 4:15 pm]

BILLING CODE 7590–01–P

POSTAL REGULATORY COMMISSION

[Docket Nos. CP2013–82; Order No. 2309]

New Postal Product

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recent Postal Service filing concerning an amendment to the existing Priority Mail Contract 64 negotiated service agreement. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* January 5, 2015.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov.* Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION:

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I. Introduction
II. Notice of Filings
III. Ordering Paragraphs

I. Introduction

On December 24, 2014, the Postal Service filed notice that it has agreed to an Amendment to the existing Priority Mail Contract 64 negotiated service agreement approved in this docket.[1] In support of its Notice, the Postal Service includes a redacted copy of the Amendment and a certification of compliance with 39 U.S.C. 3633(a), as required by 39 CFR 3015.5.

The Postal Service also filed the unredacted Amendment and supporting financial information under seal. The Postal Service seeks to incorporate by reference the Application for Non-Public Treatment originally filed in this docket for the protection of information that it has filed under seal. *Id.* at 1.

The Amendment changes the pricing structure for subsequent years of the contract.

The Postal Service intends for the Amendment to become effective one business day after the date that the Commission completes its review of the Amendment. *Id.* The Postal Service

[1] Notice of United States Postal Service of Amendment to Priority Mail Contract 64, with Portions Filed Under Seal, December 24, 2014 (Notice).

asserts that the Amendment will not impair the ability of the contract to comply with 39 U.S.C. 3633. Notice, Attachment B at 1.

II. Notice of Filings

The Commission invites comments on whether the changes presented in the Postal Service's Notice are consistent with the policies of 39 U.S.C. 3632, 3633, or 3642, 39 CFR 3015.5, and 39 CFR part 3020, subpart B. Comments are due no later than January 5, 2014. The public portions of these filings can be accessed via the Commission's Web site (*http://www.prc.gov*).

The Commission appoints Kenneth R. Moeller to represent the interests of the general public (Public Representative) in this docket.

III. Ordering Paragraphs

It is ordered:

1. The Commission reopens Docket No. CP2013–82 for consideration of matters raised by the Postal Service's Notice.
2. Pursuant to 39 U.S.C. 505, the Commission appoints Kenneth R. Moeller to serve as an officer of the Commission (Public Representative) to represent the interests of the general public in this proceeding.
3. Comments are due no later than January 5, 2014.
4. The Secretary shall arrange for publication of this order in the **Federal Register**.

By the Commission.

Shoshana M. Grove,

Secretary.

[FR Doc. 2014–30786 Filed 1–2–15; 8:45 am]

BILLING CODE 7710–FW–P

POSTAL SERVICE

International Product Change—Global Expedited Package Services—Non-Published Rates

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add Global Expedited Package Services—Non-Published Rates 5 (GEPS–NPR 5) to the Competitive Products List.

DATES: *Effective date:* January 5, 2015.

FOR FURTHER INFORMATION CONTACT: Sylvia Baylis, 202–268–6464.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642, on December 24, 2014, it filed with the Postal Regulatory Commission a *Request of the United States Postal Service to add Global Expedited Package Services—Non-Published Rates 5 (GEPS–NPR 5) to the Competitive Products List,* and *Notice of Filing GEPS–NPR 5 Model Contract and Application for Non-public Treatment of Materials Filed Under Seal.* Documents are available at *www.prc.gov,* Docket Nos. MC2015–23 and CP2015–29.

Stanley F. Mires,

Attorney, Federal Requirements.

[FR Doc. 2014–30807 Filed 1–2–15; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

Temporary Emergency Committee of the Board of Governors; Sunshine Act Meeting

Dates and Times: December 23, 2014, at 1:00 p.m.

Place: Washington, DC, via Teleconference.

Status: Committee Votes to Close December 23, 2014, Meeting: By telephone vote on December 23, 2014, members of the Temporary Emergency Committee of the Board of Governors of the United States Postal Service met and voted unanimously to close to public observation its meeting held in Washington, DC, via teleconference. The Committee determined that no earlier public notice was possible.

Matters Considered:

Tuesday, December 23, 2014, at 1:00 p.m.

1. Strategic Issues.
2. Financial Matters.

General Counsel Certification: The General Counsel of the United States Postal Service has certified that the meeting was properly closed under the Government in the Sunshine Act.

Contact Person for More Information: Julie S. Moore, Secretary of the Board, U.S. Postal Service, 475 L'Enfant Plaza SW., Washington, DC 20260–1000, telephone (202) 268–4800.

Julie S. Moore,

Secretary, Board of Governors.

[FR Doc. 2014–30977 Filed 12–31–14; 4:15 pm]

BILLING CODE 7710–12–P

RAILROAD RETIREMENT BOARD

Sunshine Act Meeting

Notice is hereby given that the Railroad Retirement Board will hold a meeting on January 14, 2015, 10:00 a.m. at the Board's meeting room on the 8th floor of its headquarters building, 844 North Rush Street, Chicago, Illinois 60611. The agenda for this meeting follows:

Portion open to the public:

(1) Executive Committee Reports

The person to contact for more information is Martha P. Rico, Secretary to the Board, Phone No. 312–751–4920.

Martha P. Rico,

Secretary to the Board.

[FR Doc. 2014–30885 Filed 12–31–14; 11:15 am]

BILLING CODE 7905–01–P

OFFICE OF SCIENCE AND TECHNOLOGY POLICY

National Nanotechnology Coordination Office

ACTION: Notice of Public Webinar.

SUMMARY: The National Nanotechnology Coordination Office (NNCO), on behalf of the Nanoscale Science, Engineering, and Technology (NSET) Subcommittee of the Committee on Technology, National Science and Technology Council (NSTC), will hold a series of webinars focusing on the experiences, successes, and challenges for small- and medium-sized businesses working in nanotechnology and on issues of interest to the business community. The first webinar in the series will be held Thursday, January 15, 2015.

DATES: The NNCO will hold multiple webinars between the publication of this Notice and December 31, 2015. The first webinar will be held on Thursday, January 15, 2015, from 12:00 p.m. to 1:00 p.m. EST.

ADDRESSES: These free, web-based events are open to the public. For current information about the webinars, please visit *www.nano.gov/SME webinars2015.*

Submitting Questions: Questions of interest to the small- and medium-sized business community may be submitted to *webinar@nnco.nano.gov* beginning one week prior to the event through the close of the webinar. During the question-and-answer segment of the webinars, submitted questions will be considered in the order received and may be posted on the NNI Web site (*www.nano.gov*). A moderator will identify relevant questions and pose them to the panelists. Due to time constraints, not all questions may be addressed during the webinar. The moderator reserves the right to group similar questions and to skip questions, as appropriate.

Registration: Registration for the webinar is required and is on a first-come, first-served basis. Registration

will open approximately two weeks prior to each event and will be capped at 200 participants. Individuals planning to attend the webinar can find registration information at *www.nano.gov/SMEwebinars2015.*

FOR FURTHER INFORMATION CONTACT: Ms. Marlowe Newman, 703–292–7128, *mnewman@nnco.nano.gov.*

SUPPLEMENTARY INFORMATION: A list of Frequently Asked Question for the business community can be found at *https://www.nano.gov/bizfaqs.* Additional information on Federal funding, infrastructure, and business development can be found at *https://www.nano.gov/collaborationsandfunding.*

Cristin Dorgelo,

Chief of Staff.

[FR Doc. 2014–30888 Filed 12–31–14; 11:15 am]

BILLING CODE 3710–F5–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 73953]

In the Matter of NASDAQ OMX PHLX, LLC; Order Granting Petition for Review and Scheduling Filing of Statements

December 30, 2014.

Pursuant to Rule 431 [1] of the Rules of Practice, the petition of NASDAQ OMX PHLX LLC for review of the staff's action in disapproving by delegated authority File No. SR–Phlx–2013–113 [2] is granted.

It is *ordered,* pursuant to Rule 431 that any party or other person may file a statement in support of or in opposition to the action made by delegated authority on or before January 20, 2015, and

The order disapproving such proposed rule change shall remain in effect.

By the Commission.

Brent J. Fields,

Secretary.

[FR Doc. 2014–30812 Filed 1–2–15; 8:45 am]

BILLING CODE 8011–01–P

[1] 17 CFR 201.431.

[2] *See* Securities Exchange Act Release No. 72633 (July 16, 2014), 79 FR 42578 (July 22, 2014).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–73950; File No. SR–NASDAQ–2014–100]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Order Approving a Proposed Rule Change To Amend NASDAQ Rule 7015(d) To Include the IPO Indicator as a New Enhancement to the NASDAQ Workstation

December 29, 2014.

I. Introduction

On October 29, 2014, The NASDAQ Stock Market LLC (''NASDAQ'' or the ''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to include a new feature, the IPO Indicator, that is designed to assist Exchange member firms in monitoring their orders during the NASDAQ Halt Cross process leading up to the launch of an initial public offering (''IPO''). The proposed rule change was published for comment in the **Federal Register** on November 18, 2014.[3] The Commission received no comments on the proposal. This order approves the proposed rule change.

II. Description of the Proposal

The Exchange proposes to amend Exchange Rule 7015(d) to include the IPO Indicator as a new enhancement to the NASDAQ Workstation. According to the Exchange, the NASDAQ Workstation provides order entry and quote functionality and includes several features to assist subscribers with managing and monitoring their trading activity.[4] The Exchange proposes to include the IPO Indicator as a new feature that is designed to assist member firms in monitoring their orders during the NASDAQ Halt Cross process.[5]

According to the Exchange, the NASDAQ Halt Cross (''Cross'') is designed to provide for an orderly, single-priced opening of securities subject to an intraday halt, including securities that are the subject of an IPO.[6] Prior to the Cross execution, the Exchange states that market participants enter quotes and orders eligible for participation in the Cross, and the Exchange disseminates certain information regarding buying and selling interest entered and the indicative execution price information, known as the Net Order Imbalance Indicator (''NOII'').[7] The Exchange further states that the NOII is disseminated every five seconds during a designated period prior to the completion of the Halt Cross, in order to provide market participants with information regarding the possible price and volume of the Cross. According to the Exchange, the information provided in the NOII message includes the Current Reference Price [8] and the number of shares of Eligible Interest.[9]

The Exchange also disseminates information about the size and buy/sell direction of an Imbalance,[10] which the Exchange defines as the number of shares of Eligible Interest with a limit price equal to the Current Reference Price that may not be matched with other order shares at a particular price at any given time.[11] The Exchange states that the disseminated information reflects all shares eligible for participation in the Cross, regardless of time-in-force (including non-displayed shares and reserve size) and is meant to indicate the degree to which available liquidity on one or the other side of the market would not be executed if the Cross were to occur at that time.

In the case of an IPO, the Exchange states that the Halt Cross operates as follows: First, the underwriters to the IPO make a determination to launch the IPO during the Pre-Launch Period [12] when the underwriters believe the security is ready to trade.[13] Second,

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 73574 (November 12, 2014), 79 FR 68745 (''Notice'').

[4] *See id.* at 68745.

[5] *See id.*

[6] *See id.*

[7] *See id.*

[8] *See* Exchange Rule 4753(a)(3)(A). The Exchange describes the Current Reference Price as the price at which the Cross would occur if it executed at the time of the NOII's dissemination. *See* Notice, *supra* note 3, at 68745.

[9] *See* Exchange Rule 4753(a)(5) (defining Eligible Interest as ''any quotation or any order that has been entered into the system and designated with a time-in-force that would allow the order to be in force at the time of the Halt Cross'').

[10] *See* Exchange Rule 4753(a)(1).

[11] *See* Notice, *supra* note 3, at 68745. The Exchange states that it also disseminates a Market Order Imbalance, which the Exchange defines as the number of shares of Eligible Interest entered through market orders that would not be matched with other order shares at the time of the dissemination of a NOII, if in fact there are such unexecutable market order shares. *See* Exchange Rule 4753(a)(2). When there is a Market Order Imbalance, the Exchange notes that it disseminates the imbalance and the buy/sell direction of the imbalance. *See* Notice, *supra* note 3, at 68745.

[12] The Exchange explains that the Pre-Launch Period is the second phase of a two-phase process that NASDAQ uses for launching IPOs. *See id.* at 68746. According to the Exchange, the Pre-Launch Period follows a 15-minute Display Only Period and is of no fixed duration. *See id.* In addition, the Exchange states that the NOII is disseminated every five seconds during both periods. *See id.*

[13] *See id.* at 68745.

once the underwriter informs the Exchange that it is ready to launch the IPO, the NASDAQ system calculates the Current Reference Price at that time (the ''Expected Price'') and displays it to the underwriter.[14] If the underwriter then approves proceeding, the NASDAQ system conducts two validation checks: (1) The NASDAQ system determines whether all market orders will execute in the cross; and (2) whether the Expected Price and the price calculated by the Cross differ by an amount in excess of the price band selected by the underwriter.[15] According to the Exchange, if either of the validation checks fails, the security will not be released for trading and the Pre-Launch Period will continue until all requirements are met.[16]

The Exchange proposes to offer the IPO Indicator to provide information about the number and price at which shares of a member firm's orders entered for execution in an IPO Halt Cross (''IPO shares'') would execute in an IPO if it were to price at the present time.[17] Under the proposal, the IPO Indicator would be offered through the NASDAQ Workstation and would use the NOII information already currently available through a Workstation subscription together with the information about the member firm's orders on NASDAQ.[18] Under the proposal, the Exchange states that member firms using the IPO Indicator would be able to see the Current Reference Price, the number of paired shares, the number of imbalance shares, the total number of IPO shares the member firm has entered for execution in the IPO Halt Cross, the nature of such shares (buy or sell), and the number of IPO shares that would be executed in the Halt Cross at that time for each of those categories.[19] In addition, the Exchange states that member firms using the IPO Indicator would also be able to see details about its IPO shares presented by individual orders or order blocks, which would include the number of IPO shares in a particular order or order block, the number and percentage of IPO shares of the order or order block that would be executed in the Halt Cross if it occurred at any given time in the process, based on the NOII disseminated every five seconds, and the price at which the order or order block was submitted.[20]

III. Discussion and Commission Findings

After careful review, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[21] In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,[22] which requires, among other things, that the rules of a national securities exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest, and Section 6(b)(8) of the Act,[23] which requires that the rules of the exchange do not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

As described above, the Exchange proposes to adopt an IPO Indicator as a new feature to the NASDAQ Workstation. The Exchange believes the IPO Indicator would provide member firms with information consistent with what the Exchange currently disseminates during the IPO launch process, but as that information relates to a member firm's orders and in greater detail.[24] The Exchange further believes that IPO Indicator would provide member firms and underwriters with more information regarding their orders submitted for participation in an IPO Halt Cross, which the Exchange believes would allow them to make better informed investment decisions.[25]

The Commission notes that the Exchange is not proposing to increase the fee for usage of the NASDAQ Workstation in connection with the addition of the IPO Indicator feature. In addition, under the proposal, the information provided by the IPO Indicator would be limited to the subscribing member firm's orders.[26] Accordingly, the Commission believes that the proposed rule change adopting the IPO Indicator feature is designed to protect investors and the public interest by providing them with more information regarding their orders submitted for participation in an IPO Halt Cross. Further, the new IPO Indicator feature may also facilitate the fair and orderly launch of an IPO security.[27]

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[28] that the proposed rule change (SR–NASDAQ–2014–100) be, and it hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[29]

Brent J. Fields,

Secretary.

[FR Doc. 2014–30809 Filed 1–2–15; 8:45 am]

BILLING CODE 8011–01–P

[14] *See id.* at 68746.

[15] *See* Notice, *supra* note 3, at 68746.

[16] *See id.* Alternatively, the underwriter may, with the concurrence of the Exchange, determine to postpone and reschedule the IPO. *See id.*

[17] *See id.*

[18] The Exchange states that the information provided by the IPO Indicator is limited to the subscribing member firm's orders. *See id.*

[19] *See* Notice, *supra* note 3, at 68746.

[20] *See id.*

[21] In approving this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[22] 15 U.S.C. 78f(b)(5).

[23] 15 U.S.C. 78f(b)(8).

[24] *See* Notice, *supra* note 3 at 68746.

[25] The Exchange notes, for example, that the IPO Indicator may help an underwriter to make a determination to launch an IPO at a time when the IPO security would likely pass the validation checks, which the Exchange believes could increase the likelihood of a fair and orderly launch of the IPO security. *See id.*

[26] *See* Notice, *supra* note 3, at 68746.

[27] *See supra* note 25.

[28] 15 U.S.C. 78s(b)(2).

[29] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–73951; File No. SR–ICC–2014–23]

Self-Regulatory Organizations; ICE Clear Credit LLC; Notice of Filing of Proposed Rule Change To Revise ICC End-of-Day Price Discovery Policies and Procedures

December 29, 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 18, 2014, ICE Clear Credit LLC (''ICC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared primarily by ICC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The principal purpose of the proposed rule change is to remove the ability for Clearing Participants to

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

submit end-of-day submissions for Single Name instruments in terms of spread and associated recovery rate. This revision does not require any changes to the ICC Clearing Rules.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, ICC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. ICC has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of these statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

ICC proposes revising the ICC End-of-Day Price Discovery Policies and Procedures to remove the ability for Clearing Participants to submit end-of-day submissions for Single Name instruments in terms of spread and associated recovery rate.

ICC believes such revisions will facilitate the prompt and accurate clearance and settlement of securities transactions and derivative agreements, contracts, and transactions for which it is responsible. The proposed revisions are described in detail as follows.

ICC requires all Clearing Participants to provide end-of-day submissions for specific instruments related to their cleared open interest. ICC uses these submissions as inputs to its price discovery algorithm, which determines end-of-day levels.

Despite the fact that ICC computes margin and guaranty fund requirements, and all other money movements, in price terms, it currently supports Clearing Participant submissions in terms of price (or the equivalent points upfront), or spread and associated recovery rate. The first step in the price discovery algorithm for Single Name instruments is to convert any submissions in terms of spread and associated recovery rate to the equivalent submission in price terms using the ISDA standard model.

ICC is revising its End-of-Day Price Discovery Policies and Procedures to remove the ability for Clearing Participants to provide end-of-day submissions for Single Name instruments in terms of spread and associated recovery rate. Rather, ICC will require price (or the equivalent points upfront) submissions for all Single Name instruments. This change will result in the elimination of the use of the ISDA standard model to determine end-of-day prices for Single Name instruments. ICC also clarified language regarding its determination of implied recovery rates. There are no changes to ICC's Clearing Rules as a result of these enhancements.

Section 17A(b)(3)(F) of the Act [3] requires, among other things, that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions, and to the extent applicable, derivative agreements, contracts and transactions and to comply with the provisions of the Act and the rules and regulations thereunder. ICC believes that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to ICC, in particular, to Section 17(A)(b)(3)(F),[4] because ICC believes that the proposed rule change will assure the prompt and accurate clearance and settlement of securities transactions, derivatives agreements, contracts, and transactions, as the proposed revisions ensure ICC considers its Clearing Participants' view of the price of a given Single Name instrument, without the use of a model to imply a view on price from a submitted view on spread and associated recovery rate, resulting in an end-of-day price that is not subject to any potential model limitations or assumptions. With this change, ICC seeks to follow a common industry practice adopted for Single Name instruments that have become distressed to avoid potential model limitations, namely the observed market transition to quoting and trading in price (or points upfront) terms. As such, the proposed change is designed to promote the prompt and accurate clearance and settlement of securities transactions, derivatives agreements, contracts, and transactions within the meaning of Section 17A(b)(3)(F) of the Act.[5]

B. Self-Regulatory Organization's Statement on Burden on Competition

ICC does not believe the proposed rule change would have any impact, or impose any burden, on competition. The elimination of spread submissions for Single Names instruments applies uniformly across all market participants. Therefore, ICC does not believe the proposed rule change imposes 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

Written comments relating to the proposed rule change have not been solicited or received. ICC will notify the Commission of any written comments received by ICC.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve or disapprove 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–ICC–2014–23 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–ICC–2014–23. 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

[3] 15 U.S.C. 78q–1(b)(3)(F).

[4] *Id.*

[5] *Id.*

communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filings will also be available for inspection and copying at the principal office of ICE Clear Credit and on ICE Clear Credit's Web site at *https://www.theice.com/clear-credit/regulation.*

All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–ICC–2014–23 and should be submitted on or before January 26, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[6]

Brent J. Fields,

Secretary.

[FR Doc. 2014–30802 Filed 1–2–15; 8:45 am]

BILLING CODE 8011–01–P

[6] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–73952; File No. SR–NYSEArca–2014–146]

Self-Regulatory Organizations; NYSE Arca Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending NYSE Arca Equities Rules 7.32 in Order To Increase the Maximum Order Entry Size to Five Million Shares

December 29, 2014.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (the ''Act'')[2] and Rule 19b–4 thereunder,[3] notice is hereby given that on December 18, 2014, NYSE Arca, Inc. (the ''Exchange'' or ''NYSE Arca'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend NYSE Arca Equities Rules 7.32 in order to increase the maximum order entry size to five million shares. The text of the proposed rule change is available on the Exchange's Web site at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

NYSE Arca Equities Rule 7.32 (''Rule 7.32'') currently provides that orders entered with a size greater than one million shares shall be rejected. The Exchange proposes to amend Rule 7.32 to increase the size of orders that may be entered on the Exchange. As proposed, Rule 7.32 would be amended to specify that orders entered with a size greater than five million shares would be rejected.[4] The Exchange believes that the increased maximum order size would enable ETP Holders with orders sized larger than one million shares to enter a single order at the Exchange rather than have to break such order into separate orders of one million shares or less for purposes of order entry at the Exchange.[5] The Exchange notes that ETP Holders entering such large-sized orders would be subject to the market access control requirements set forth in Rule 15c3–5 under the Act (''Rule 15c3–5'') relating to the entry of orders.[6] The Exchange also proposes, upon at least 24 hours advance notice to market participants, to decrease the maximum order size of five million shares on a security-by-security basis.

Because of the technology changes associated with the proposed rule change, the Exchange proposes to announce the implementation date via Trader Update.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b)[7] of the Act, in general, and furthers the objectives of Section 6(b)(5),[8] in particular, in that it is designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and a national market system. Specifically, the Exchange believes that increasing the maximum order size would remove impediments to and perfect a national market system by increasing capacity and providing more efficient methods for ETP Holders to transmit large-sized orders to the Exchange. The Exchange believes that the proposed rule change would not be inconsistent with the public interest and the protection of investors because investors would not be harmed by the increase in the maximum size of orders that the Exchange would accept since ETP Holders entering such large-sized orders would continue to be subject to the market access control requirements of Rule 15c3–5. The Exchange further believes that the proposed ability for the Exchange to decrease the maximum order size on a security-by-security basis following notice to the market also would remove impediments and perfect the mechanism of a free and open market because it provides the Exchange with the flexibility to reduce order entry size to respond to a market event that may warrant a smaller order size entry for a symbol. The Exchange believes that providing at least 24 hours-notice would be consistent with the public interest and the protection of investors at is [sic] would provide time for ETP Holders to adjust their order entry for a symbol should such a decrease be warranted for a symbol.

[4] At the time the current rule was approved, Exchange systems could not accept orders with a size greater than one million shares. *See* Securities Exchange Act Release No. 71331 (January 16, 2014), 79 FR 3907 (January 23, 2014) (SR–NYSEArca–2014–92) [sic]. Exchange systems are now ready to accept orders up to five million shares.

[5] The Exchange notes that the New York Stock Exchange, LLC (''NYSE'') supports the entry of orders up to 25,000,000 in size. *See* NYSE Rule 1000.

[6] 17 CFR 240.15c3–5.

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(5).

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change imposes any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange operates in a highly competitive market environment and the proposed change, by expanding the size of the orders the Exchange would accept, is designed to attract order flow to the Exchange by making the entry of large-sized orders more efficient for ETP Holders.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act [9] and Rule 19b–4(f)(6) thereunder.[10] Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6)(iii) thereunder.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission will institute proceedings to determine whether the proposed rule change should be approved or disapproved.

[9] 15 U.S.C. 78s(b)(3)(A)(iii).

[10] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires the Exchange to give the Commission written notice of the Exchange's intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSEArca–2014–146 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEArca–2014–146. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEArca–2014–146 and should be submitted on or before January 26, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

Brent J. Fields,

Secretary.

[FR Doc. 2014–30803 Filed 1–2–15; 8:45 am]

BILLING CODE 8011–01–P

[11] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–73948; File No. SR–NASDAQ–2014–124]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Modify NASDAQ Rule 7018 Fees

December 29, 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 16, 2014, The NASDAQ Stock Market LLC (''NASDAQ'' or the ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') a proposed rule change as described in Items I, II and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

NASDAQ is proposing to modify NASDAQ Rule 7018 fees assessed for execution and routing securities listed on execution and routing securities listed on the New York Stock Exchange (''NYSE'') as well as a few minor clarifications to NASDAQ Rules 7018(a)(2) and (3).

While the changes proposed herein are effective upon filing, the Exchange has designated that the amendments be operative on January 1, 2015.

The text of the proposed rule change is available at *nasdaq.cchwallstreet.com* at NASDAQ's principal office, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NASDAQ included statements concerning the purpose of, and basis for,

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

NASDAQ is proposing to amend NASDAQ Rule 7018(a)(2) to modify fees assessed for execution and routing securities listed on the NYSE, as well as a few minor clarifications to NASDAQ Rules 7018(a)(2) and (3).

Specifically, the Exchange is proposing to increase the charge for DOT or LIST orders that execute in the NYSE closing process from $0.00095 per share executed to $0.0010 per share executed. The Exchange is proposing to increase the charge for DOT or LIST orders that execute in the NYSE opening process or reopening process from $0.0005 per share executed to $0.0015 per share executed.

The Exchange is raising both of the above fees for DOT or LIST orders routed to NYSE because NASDAQ is seeking to cover the cost of routing and to reflect recent increases in the fees charged by NYSE with respect to orders routed to it by NASDAQ. Each time NES executes an order at an away market, NES is charged a clearing fee and, in the case of certain exchanges, a transaction fee is also charged in certain symbols, which fees are passed through to the Exchange.

The Exchange currently recoups clearing and transaction charges incurred by the Exchange as well as certain other costs incurred by the Exchange when routing to away markets, such as administrative and technical costs associated with operating NES, membership fees at away markets, staffing and technical costs associated with routing orders. The Exchange assesses the actual away market fee at the time that the order was entered into the Exchange's trading system. This transaction fee is calculated on an order-by-order basis since different away markets charge different amounts. The Exchange desires to recoup additional costs at this time.

Additionally, NASDAQ Rules 7018(d) and (e) set forth fees assessed for executions received in the Opening and Closing Crosses. The rule provides a fee of $0.0004 per share executed assessed for all other quotes and orders not otherwise noted under the rules. The Exchange is proposing to increase the fee from $0.0004 to $0.0006 per share executed for imbalance-only and continuous book orders in the Opening and Closing Crosses. The proposed increases to the fees assessed for executions in the Closing and Opening Crosses will help the Exchange recapture some of the costs it incurs operating the cross system, while maintaining very low fees for the execution of orders in these crosses.

The Exchange is also eliminating NASDAQ Rule 7018(g), the subsection concerning retail price improvement program (the ''Program'') pricing for retail orders and retail price improvement orders, because the pilot program expires at the end of 2014.

Finally, the Exchange is clarifying in two places in each of NASDAQ Rule 7018(a)(2) and NASDAQ Rule 7018(a)(3) that the language regarding DOT or LIST orders explicitly refers to a charge. These changes are being made solely for the purpose of adding additional clarity.

2. Statutory Basis

NASDAQ believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,[3] in general, and with Sections 6(b)(4) and 6(b)(5) of the Act,[4] in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility or system which NASDAQ operates or controls, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers. This proposal is reasonable, equitable and not unfairly discriminatory for the reasons noted below.

The Exchange believes that increasing the fees for DOT or LIST orders that execute in the NYSE closing from $0.00095 per share executed to $0.0010 per share executed, as well as increasing the fees for DOT or LIST orders that execute in the NYSE opening or reopening processes from $0.0005 per share executed to $0.0015 per share executed, are reasonable because the Exchange would apply such fees uniformly and desires to recoup an additional portion of the cost it incurs when routing such orders that execute in the NYSE closing, opening or reopening processes.

The Exchange believes that increasing these fees for DOT or LIST orders that execute in the NYSE closing, opening or reopening processes are equitable and not unfairly discriminatory because the Exchange would assess the same increased fees to all market participants utilizing routing for DOT or LIST orders that execute in the NYSE opening or reopening processes.

When routing orders to non-NASDAQ OMX exchanges such as NYSE, the Exchange incurs costly connectivity charges related to telecommunication lines, membership and access fees, and other related costs when routing orders. The Exchange believes that the proposed fee increases for DOT or LIST orders that execute in the NYSE closing, opening or reopening processes will enable Nasdaq to recover the costs it incurs to route such orders to NYSE. Each destination market's transaction charge varies and there is a cost incurred by the Exchange when routing orders to away markets, including administrative and technical costs associated with operating NES, as well as membership fees at away markets.

NASDAQ also believes that the changes to the fees assessed for participation in the Opening and Closing Crosses are consistent with an equitable allocation of a reasonable fee and not unfairly discriminatory. Specifically, the Exchange is proposing to increase the fee from $0.0004 to $0.0006 per share executed for imbalance-only and continuous book orders in the Opening and Closing Crosses. The Exchange believes that the fees are reasonable because supporting the crosses requires capital investment to maintain a system that facilitates an orderly auction process, and the proposed increases are designed to offset the costs the Exchange incurs in operating the crosses. Moreover, the proposed fees are equitably allocated because they apply a fee on all members that benefit from participation in the Opening and Closing Crosses, and are based on the type of order entered and contribution to market quality. Similarly, the proposed fees are not unfairly discriminatory because they are based on the type of order executed in the crosses and the benefit to market quality that such orders provide. NASDAQ believes that the proposal to increase the charges assessed for executions in the crosses is reasonable, equitably allocated and not unfairly discriminatory because the increased fees are identical in amount and apply to all members that elect to participate in the crosses and receive an execution. Moreover, NASDAQ does not believe that the increased fees will negatively impact participation in the crosses as current rates assessed for the open and closing cross continue to be materially

[3] 15 U.S.C. 78f.

[4] 15 U.S.C. 78f(b)(4) and (5).

less than the standard fee for accessing liquidity.

The Exchange believes that removing NASDAQ Rule 7018(g), the subsection concerning pricing for the Program, is reasonable because the Program is a pilot that is not being renewed so the related pricing is made moot. The Exchange also believes that this change is consistent with an equitable allocation of a reasonable fee and not unfairly discriminatory because the ending of the pilot for this Program and associated pricing applies uniformly across all Exchange members.

The Exchange also believes that the proposed rule change clarifications to DOT or LIST orders in two places in each of NASDAQ Rule 7018(a)(2) and NASDAQ Rule 7018(a)(3) is consistent with the provisions of Section 6 of the Act,[5] in general, and with Sections 6(b)(5) of the Act[6] in particular, in that it is designed to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest. Specifically, this is achieved through clarifications to the language regarding DOT or LIST orders that will now explicitly refer to a charge and thereby promote market participants' improved understanding of the rule.

B. Self-Regulatory Organization's Statement on Burden on Competition

NASDAQ does not believe that the proposed rule changes will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.[7] NASDAQ notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive, or rebate opportunities available at other venues to be more favorable. In such an environment, NASDAQ must continually adjust its fees to remain competitive with other exchanges and with alternative trading systems that have been exempted from compliance with the statutory standards applicable to exchanges. Because competitors are free to modify their own fees in response, and because market participants may readily adjust their order routing practices, NASDAQ believes that the degree to which fee changes in this market may impose any burden on competition is extremely limited.

In this instance, the changes to routing fees do not impose a burden on competition because NASDAQ's routing services are optional and are the subject of competition from other exchanges and broker-dealers that offer routing services, as well as the ability of members to develop their own routing capabilities. The increased fees for DOT or LIST orders that execute in the NYSE closing, opening or reopening processes are reflective of the Exchange's need to recover the costs it incurs to route such orders to NYSE. In sum, if the changes proposed herein are unattractive to market participants, it is likely that NASDAQ will lose market share or routable order flow as a result. Additionally, the modestly increased fees for execution in the NASDAQ crosses are reflective of a need to support and improve NASDAQ systems, which in turn benefit market quality, and ultimately, competition.

Accordingly, NASDAQ does not believe that the proposed changes will impair the ability of members or competing order execution venues to maintain their competitive standing in the financial markets.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act.[8] 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–NASDAQ–2014–124 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–NASDAQ–2014–124. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NASDAQ–2014–124 and should be submitted on or before January 26, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[9]

Brent J. Fields,

Secretary.

[FR Doc. 2014–30801 Filed 1–2–15; 8:45 am]

BILLING CODE 8011–01–P

[5] 15 U.S.C. 78f.

[6] 15 U.S.C. 78f(b)(5).

[7] 15 U.S.C. 78f(b)(8).

[8] 15 U.S.C. 78s(b)(3)(A)(ii).

[9] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF STATE

[Public Notice 8992]

Culturally Significant Objects Imported for Exhibition Determinations: ''Buddhist Art of Myanmar'' Exhibition

SUMMARY: Notice is hereby given of the following determinations: Pursuant to

the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.;* 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236–3 of August 28, 2000 (and, as appropriate, Delegation of Authority No. 257 of April 15, 2003), I hereby determine that the objects to be included in the exhibition ''Buddhist Art of Myanmar,'' imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to loan agreements with the foreign owners or custodians. I also determine that the exhibition or display of the exhibit objects at the Asia Society Museum, New York, New York, from on or about February 10, 2015, until on or about May 10, 2015, and at possible additional exhibitions or venues yet to be determined, is in the national interest. I have ordered that Public Notice of these Determinations be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, including lists of the exhibit objects, contact Julie Simpson, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (telephone: 202–632–6467). The mailing address is U.S. Department of State, SA–5, L/PD, Fifth Floor (Suite 5H03), Washington, DC 20522–0505.

Dated: December 19, 2014.

Kelly Keiderling,

Principal Deputy Assistant Secretary, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 2014–30851 Filed 1–2–15; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice 8991]

Culturally Significant Objects Imported for Exhibition Determinations: ''Man Ray—Human Equations: A Journey From Mathematics to Shakespeare''

AGENCY: Department of State.

ACTION: Notice, correction.

SUMMARY: On December 3, 2014, notice was published on pages 71814 and 71815 of the **Federal Register** (volume 79, number 232) of determinations made by the Department of State pertaining to the exhibition ''Man Ray—Human Equations: A Journey from Mathematics to Shakespeare.'' The referenced notice is corrected here to include additional objects as part of the exhibition. Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.;* 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236–3 of August 28, 2000 (and, as appropriate, Delegation of Authority No. 257 of April 15, 2003), I hereby determine that the additional objects to be included in the exhibition ''Man Ray—Human Equations: A Journey From Mathematics to Shakespeare,'' imported from abroad for temporary exhibition within the United States, are of cultural significance. The additional objects are imported pursuant to loan agreements with the foreign owners or custodians. I also determine that the exhibition or display of the additional objects at The Phillips Collection, Washington, DC, from on or about February 7, 2015, until on or about May 10, 2015, and at possible additional exhibitions or venues yet to be determined, is in the national interest. I have ordered that Public Notice of these Determinations be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, including a list of the imported objects, contact Julie Simpson, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (telephone: 202–632–6467). The mailing address is U.S. Department of State, SA–5, L/PD, Fifth Floor (Suite 5H03), Washington, DC 20522–0505.

Dated: December 19, 2014.

Kelly Keiderling,

Principal Deputy Assistant Secretary, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 2014–30857 Filed 1–2–15; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Delegation of Authority No. 379]

Delegation to the Assistant Secretary for Oceans and International Environmental and Scientific Affairs of Authorities Under Certain Marine Convention Implementing Acts

By virtue of the authority vested in me as Secretary of State, including Section 1 of the State Department Basic Authorities Act, as amended (22 U.S.C. 2651a), I hereby delegate to the Assistant Secretary for Oceans and International Environmental and Scientific Affairs the functions vested in the Secretary of State by the following:

1. Sections 204, 208(a), and 209(b) of P.L. 104–43, Title II, the Northwest Atlantic Fisheries Convention Act of 1995 (16 U.S.C. 5603, 5607(a), 5608(b)).

2. Sections 3(a), 4, and 5(a) of P.L. 98–445, the Eastern Pacific Tuna Licensing Act of 1984 (16 U.S.C. 972a(a), 972b, 972c(a)).

3. Sections 503(b), (c)(3)(A), (d)(1)(D), 504, and 509 of P.L. 109–479, Title V, the Western and Central Pacific Fisheries Convention Implementation Act (16 U.S.C. 6902(b), (c)(3)(A), (d)(1)(D), 6903, 6908).

The Assistant Secretary for Oceans and International Environmental and Scientific Affairs may, to the extent authorized by law, re-delegate to officers and employees under his or her direction and supervision any of the functions delegated herein.

Notwithstanding this delegation of authority, the Secretary, the Deputy Secretary, the Deputy Secretary for Management and Resources, and the Under Secretary for Economic Growth, Energy, and the Environment may at any time exercise any authority or function delegated by this delegation of authority.

Any act, executive order, regulation, or procedure subject to, or affected by, this delegation shall be deemed to be such act, executive order, regulation, or procedure as amended from time to time.

This delegation of authority shall be published in the **Federal Register**.

Dated: December 8, 2014.

John F. Kerry,

Secretary of State.

[FR Doc. 2014–30855 Filed 1–2–15; 8:45 am]

BILLING CODE 4710–09–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

Notice of Application for Modification of Special Permit

AGENCY: Office of Hazardous Materials Safety, Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

ACTION: List of application for modification of special permits.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, special permits from the Department of Transportation's Hazardous Material Regulations (49 CFR part 107, subpart B), notice is hereby given that the Office

of Hazardous Materials Safety has received the applications described herein. This notice is abbreviated to expedite docketing and public notice. Because the sections affected, modes of transportation, and the nature of application have been shown in earlier **Federal Register** publications, they are not repeated here. Requests for modification of special permits (*e.g.* to provide for additional hazardous materials, packaging design changes, additional mode of transportation, etc.) are described in footnotes to the application number. Application numbers with the suffix ''M'' denote a modification request. These applications have been separated from the new application for special permits to facilitate processing.

DATES: Comments must be received on or before January 20, 2015.

Address Comments to: Record Center, Pipeline and Hazardous Materials, Safety Administration, U.S. Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate. If confirmation of receipt of comments is desired, include a self-addressed stamped postcard showing the special permit number.

FOR FURTHER INFORMATION CONTACT: Copies of the applications are available for inspection in the Records Center, East Building, PHH–30, 1200 New Jersey Avenue Southeast, Washington DC or at *http://regulations.gov*.

This notice of receipt of applications for modification of special permit is published in accordance with Part 107 of the Federal hazardous materials transportation law (49 U.S.C. 5117(b); 49 CFR 1.53(b)).

Issued in Washington, DC, on December 15, 2014.

Donald Burger,

Chief, General Approvals.

MODIFICATION SPECIAL PERMITS

Application number	Docket number	Applicant	Regulation(s) affected	Nature of special permit thereof
11253–M		DPC Industries, Inc. Houston, TX.	49 CFR 172.101, Special Provision B14; 173.315, Notes 4, 24.	To modify the special permit to authorize adding an additional cargo tank.
12084–M		Honeywell International, Inc. Morristown, NJ.	49 CFR 180.209	To modify the special permit to authorize an additional hazardous material.
12116–M		Proserv UK Ltd East Tullos Aberdeen.	49 CFR 178.36	To modify the special permit to authorize use of a stronger and more corrosion resistant material to be used to manufacture certain parts of the cylinders.
15552–M		Poly-Coat Systems, Inc. Liverpool, TX.	49 CFR 107.503(b) and (c), 173.241, 173.242, and 173.243.	To modify the special permit to provide a more accurate method of testing for lining failure.
15985–M		Space Exploration Technologies Corp. (Space X) Hawthorne, CA.	49 CFR part 172 and 173.	To modify the special permit to authorize the transportation of hazardous materials by cargo vessel.

[FR Doc. 2014–30550 Filed 1–2–15; 8:45 am]

BILLING CODE 4909–60–M

FEDERAL REGISTER

Vol. 80 Monday,

No. 2 January 5, 2015

Part II

Environmental Protection Agency

40 CFR Part 50

National Ambient Air Quality Standards for Lead; Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 50

[EPA–HQ–OAR–2010–0108; FRL–9915–57–OAR]

RIN 2060–AQ44

National Ambient Air Quality Standards for Lead

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: Based on the Environmental Protection Agency's (EPA's) review of the air quality criteria and the national ambient air quality standards (NAAQS) for lead (Pb), the EPA is proposing to retain the current standards, without revision.

DATES: Comments must be received on or before April 6, 2015.

Public Hearings: If, by January 26, 2015, the EPA receives a request from a member of the public to speak at a public hearing concerning the proposed decision, we will hold a public hearing, with information about the hearing provided in a subsequent notice in the **Federal Register**.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OAR–2010–0108 by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov:* Follow the on-line instructions for submitting comments.
- *Email: a-and-r-Docket@epa.gov.* Include docket ID No. EPA–HQ–OAR–2010–0108 in the subject line of the message.
- *Fax:* 202–566–9744.
- *Mail:* Docket No. EPA–HQ–OAR–2010–0108, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW., Washington, DC 20460.
- *Hand Delivery:* Docket No. EPA–HQ–OAR–2010–0108, Environmental Protection Agency, EPA WJC West Building, Room 3334, 1301 Constitution Ave. NW., Washington, DC. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–HQ–OAR–2010–0108. 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 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 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. For additional information about the EPA's public docket, visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.*

Public Hearing: To request a public hearing or information pertaining to a public hearing on this document, contact Ms. Eloise Shepherd, Health and Environmental Impacts Division, Office of Air Quality Planning and Standards (C504–02), U.S. Environmental Protection Agency, Research Triangle Park, NC 27711; telephone number (919) 541–5507; fax number (919) 541–0804; email address: *shepherd.eloise@epa.gov.* See the **SUPPLEMENTARY INFORMATION** for further information about a possible public hearing.

Docket: All documents in the docket are listed on the *www.regulations.gov* Web site. This includes documents in the rulemaking docket (Docket ID No. EPA–HQ–OAR–2010–0108) and a separate docket, established for the Integrated Science Assessment for this review (Docket ID No. EPA–HQ–ORD–2011–0051) that has been incorporated by reference into the rulemaking docket. All documents in these dockets are listed on the *www.regulations.gov* Web site. Although listed in the index, some information is not publicly available, *e.g.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and may be viewed, with prior arrangement, at the EPA Docket Center. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at the Air and Radiation Docket Information Center, EPA/DC, WJC West Building, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744 and the telephone number for the Air and Radiation Docket Information Center is (202) 566–1742.

FOR FURTHER INFORMATION CONTACT: Dr. Deirdre L. Murphy, Health and Environmental Impacts Division, Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Mail Code C504–06, Research Triangle Park, NC 27711; telephone: (919) 541–0729; fax: (919) 541–0237; email: *murphy.deirdre@epa.gov.* To request a public hearing or information pertaining to a public hearing on this document, contact Ms. Eloise Shepherd, Health and Environmental Impacts Division, Office of Air Quality Planning and Standards (C504–02), U.S. Environmental Protection Agency, Research Triangle Park, NC 27711; telephone number (919) 541–5507; fax number (919) 541–0804; email address: *shepherd.eloise@epa.gov.*

SUPPLEMENTARY INFORMATION:

General Information

Preparing Comments for the EPA

1. *Submitting CBI.* Do not submit this information to the EPA through *www.regulations.gov* or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD–ROM that you mail to the EPA, mark the outside of the disk or CD–ROM as CBI and then identify electronically within the disk or CD–ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for Preparing Your Comments.* When submitting comments, remember to:

- Identify the rulemaking by docket number and other identifying information (subject heading, **Federal Register** date and page number).
- Follow directions—the agency may ask you to respond to specific questions or organize comments by referencing a

Code of Federal Regulations (CFR) part or section number.

- Explain why you agree or disagree, suggest alternatives, and substitute language for your requested changes.
- Describe any assumptions and provide any technical information and/or data that you used.
- Provide specific examples to illustrate your concerns, and suggest alternatives.
- Explain your views as clearly as possible, avoiding the use of profanity or personal threats.
- Make sure to submit your comments by the comment period deadline identified.

Availability of Information Related to This Action

A number of the documents that are relevant to this action are available through the EPA's Office of Air Quality Planning and Standards (OAQPS) Technology Transfer Network (TTN) Web site at *http://www.epa.gov/ttn/naaqs/standards/pb/s_pb_index.html.* These documents include the *Plan for Review of the National Ambient Air Quality Standards for Lead* (USEPA, 2011a), available at *http://www.epa.gov/ttn/naaqs/standards/pb/s_pb_2010_pd.html,* the *Integrated Science Assessment for Lead* (USEPA, 2013a), available at *http://www.epa.gov/ttn/naaqs/standards/pb/s_pb_2010_isa.html,* the *Review of the National Ambient Air Quality Standards for Lead: Risk and Exposure Assessment Planning Document* (USEPA, 2011b), available at *http://www.epa.gov/ttn/naaqs/standards/pb/s_pb_2010_pd.html,* and the *Policy Assessment for the Review of the Lead National Ambient Air Quality Standards* (USEPA, 2014), available at *http://www.epa.gov/ttn/naaqs/standards/pb/s_pb_2010_pa.html.* These and other related documents are also available for inspection and copying in the EPA docket identified above.

Information About a Possible Public Hearing

To request a public hearing or information pertaining to a public hearing on this document, contact Ms. Eloise Shepherd, Health and Environmental Impacts Division, Office of Air Quality Planning and Standards (C504–02), U.S. Environmental Protection Agency, Research Triangle Park, NC 27711; telephone number (919) 541–5507; fax number (919) 541–0804; email address: *shepherd.eloise@epa.gov.*

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I. Background

A. Legislative Requirements

Two sections of the Clean Air Act (CAA or the Act) govern the establishment and revision of the NAAQS. Section 108 (42 U.S.C. 7408) directs the Administrator to identify and list certain air pollutants and then to issue air quality criteria for those pollutants. The Administrator is to list those air pollutants that in her ''judgment, cause or contribute to air pollution which may reasonably be anticipated to endanger public health or welfare;'' ''the presence of which in the ambient air results from numerous or diverse mobile or stationary sources;'' and ''for which . . . [the Administrator] plans to issue air quality criteria . . .'' Air quality criteria are intended to ''accurately reflect the latest scientific knowledge useful in indicating the kind and extent of all identifiable effects on public health or welfare which may be expected from the presence of [a] pollutant in the ambient air . . .'' 42 U.S.C. 7408(b). Section 109 (42 U.S.C. 7409) directs the Administrator to propose and promulgate ''primary'' and ''secondary'' NAAQS for pollutants for which air quality criteria are issued. Section 109(b)(1) defines a primary standard as one ''the attainment and maintenance of which in the judgment of the Administrator, based on such criteria and allowing an adequate margin of safety, are requisite to protect the public health.'' [1] A secondary standard, as defined in section 109(b)(2), must ''specify a level of air quality the attainment and maintenance of which, in the judgment of the Administrator, based on such criteria, is requisite to protect the public welfare from any known or anticipated adverse effects associated with the presence of [the] pollutant in the ambient air.'' [2]

The requirement that primary standards provide an adequate margin of safety was intended to address uncertainties associated with

[1] The legislative history of section 109 indicates that a primary standard is to be set at ''the maximum permissible ambient air level . . . which will protect the health of any [sensitive] group of the population,'' and that for this purpose ''reference should be made to a representative sample of persons comprising the sensitive group rather than to a single person in such a group.'' See S. Rep. No. 91–1196, 91st Cong., 2d Sess. 10 (1970).

[2] Welfare effects as defined in section 302(h) (42 U.S.C. 7602(h)) include, but are not limited to, ''effects on soils, water, crops, vegetation, man-made materials, animals, wildlife, weather, visibility and climate, damage to and deterioration of property, and hazards to transportation, as well as effects on economic values and on personal comfort and well-being.''

inconclusive scientific and technical information available at the time of standard setting. It was also intended to provide a reasonable degree of protection against hazards that research has not yet identified. *See Lead Industries Association* v. *EPA,* 647 F.2d 1130, 1154 (D.C. Cir 1980), *cert. denied,* 449 U.S. 1042 (1980); *American Petroleum Institute* v. *Costle,* 665 F.2d 1176, 1186 (D.C. Cir. 1981), *cert. denied,* 455 U.S. 1034 (1982); *American Farm Bureau Federation* v. *EPA,* 559 F.3d 512, 533 (D.C. Cir. 2009); *Association of Battery Recyclers* v. *EPA,* 604 F.3d 613, 617–18 (D.C. Cir. 2010). Both kinds of uncertainties are components of the risk associated with pollution at levels below those at which human health effects can be said to occur with reasonable scientific certainty. Thus, in selecting primary standards that provide an adequate margin of safety, the Administrator is seeking not only to prevent pollution levels that have been demonstrated to be harmful but also to prevent lower pollutant levels that may pose an unacceptable risk of harm, even if the risk is not precisely identified as to nature or degree. The CAA does not require the Administrator to establish a primary NAAQS at a zero-risk level or at background concentration levels, see Lead Industries v. EPA, 647 F.2d at 1156 n.51, but rather at a level that reduces risk sufficiently so as to protect public health with an adequate margin of safety.

In addressing the requirement for an adequate margin of safety, the EPA considers such factors as the nature and severity of the health effects involved, the size of sensitive population(s) at risk,[3] and the kind and degree of the uncertainties that must be addressed. The selection of any particular approach to providing an adequate margin of safety is a policy choice left specifically to the Administrator's judgment. See *Lead Industries Association* v. *EPA,* 647 F.2d at 1161–62.

In setting primary and secondary standards that are ''requisite'' to protect public health and welfare, respectively, as provided in section 109(b), the EPA's task is to establish standards that are neither more nor less stringent than necessary for these purposes. In so doing, the EPA may not consider the costs of implementing the standards. See generally, *Whitman* v. *American Trucking Associations,* 531 U.S. 457, 465–472, 475–76 (2001). Likewise, ''[a]ttainability and technological feasibility are not relevant considerations in the promulgation of national ambient air quality standards.'' *American Petroleum Institute* v. *Costle,* 665 F.2d at 1185.

Section 109(d)(1) requires that ''not later than December 31, 1980, and at 5-year intervals thereafter, the Administrator shall complete a thorough review of the criteria published under section 108 and the national ambient air quality standards . . . and shall make such revisions in such criteria and standards and promulgate such new standards as may be appropriate. . . .'' Section 109(d)(2) requires that an independent scientific review committee ''shall complete a review of the criteria . . . and the national primary and secondary ambient air quality standards . . . and shall recommend to the Administrator any new . . . standards and revisions of existing criteria and standards as may be appropriate. . . .'' Since the early 1980s, this independent review function has been performed by the Clean Air Scientific Advisory Committee (CASAC).[4]

B. Related Lead Control Programs

States are primarily responsible for ensuring attainment and maintenance of the NAAQS. Under section 110 of the Act (42 U.S.C. 7410) and related provisions, states are to submit, for EPA approval, state implementation plans (SIPs) that provide for the attainment and maintenance of such standards through control programs directed to sources of the pollutants involved. The states, in conjunction with the EPA, also administer the Prevention of Significant Deterioration program (42 U.S.C. 7470–7479) for these pollutants.

The NAAQS is only one component of the EPA's programs to address Pb in the environment. Federal programs additionally provide for nationwide reductions in air emissions of these and other air pollutants through the Federal Motor Vehicle Control program under Title II of the Act (42 U.S.C. 7521–7574), which involves controls for automobile, truck, bus, motorcycle, nonroad engine, and aircraft emissions; the new source performance standards under section 111 of the Act (42 U.S.C. 7411); emissions standards for solid waste incineration units and the national emission standards for hazardous air pollutants (NESHAP) under sections 129 (42 U.S.C. 7429) and 112 (42 U.S.C. 7412) of the Act, respectively.

The EPA has taken a number of actions associated with these air pollution control programs since the last review of the Pb NAAQS, including completion of several regulations which will result in reduced Pb emissions from stationary sources regulated under the CAA sections 112 and 129. For example, in January 2012, the EPA updated the NESHAP for the secondary lead smelting source category (77 FR 555, January 5, 2012). These amendments to the original maximum achievable control technology standards apply to facilities nationwide that use furnaces to recover Pb from Pb-bearing scrap, mainly from automobile batteries (15 existing facilities, one under construction). By the effective date in 2014, this action is estimated to result in a Pb emissions reduction of 13.6 tons per year (tpy) across the category (a 68% reduction). Somewhat lesser Pb emissions reductions are also expected from regulations completed in 2013 for commercial and industrial solid waste incineration units (78 FR 9112, February 7, 2013), as well as several other regulations since 2007 (72 FR 73179, December 26, 2007; 72 FR 74088, December 28, 2007; 73 FR 225, November 20, 2008; 78 FR 10006, February 12, 2013; 76 FR 15372, March 21, 2011; 78 FR 7138, January 31, 2013; 74 FR 51368, October 6, 2009; Policy Assessment, Appendix 2A).

The presentation below briefly summarizes additional ongoing activities that, although not directly pertinent to the review of the NAAQS, are associated with controlling environmental Pb levels and human Pb exposures more broadly. Among those identified are the EPA programs intended to encourage exposure reduction programs in other countries.

Reducing Pb exposures has long been recognized as a federal priority as environmental and public health agencies continue to grapple with soil and dust Pb levels from the historical use of Pb in paint and gasoline and from other sources (Alliance to End Childhood Lead Poisoning, 1991; 62 FR 19885, April 23, 1997; 66 FR 52013, October 11, 2001; 68 FR 19931, April 23, 2003). A broad range of federal programs beyond those that focus on air pollution control provide for nationwide reductions in environmental releases and human exposures. For example, pursuant to section 1412 of the Safe Drinking Water Act (SDWA), the EPA regulates Pb in public drinking water systems through corrosion control

[3] As used here and similarly throughout this notice, the term population (or group) refers to persons having a quality or characteristic in common, such as a specific pre-existing illness or a specific age or life stage. As discussed more fully in section II.B.4 below, the identification of sensitive groups (called at-risk groups or at-risk populations) involves consideration of susceptibility and vulnerability.

[4] Lists of CASAC members and of members of the CASAC Lead Review Panel are available at: *http://yosemite.epa.gov/sab/sabproduct.nsf/WebCASAC/CommitteesandMembership?OpenDocument.*

and other utility actions which work together to minimize Pb levels at the tap (40 CFR 141.80–141.91). Under section 1417 of the SDWA, pipes, fittings and fixtures for potable water applications may not be used or introduced into commerce unless they are considered ''lead free'' as defined by that Act (40 CFR 141.43).[5] Additionally, federal Pb abatement programs provide for the reduction in human exposures and environmental releases from in-place materials containing Pb (*e.g.,* Pb-based paint, urban soil and dust, and contaminated waste sites). Federal regulations on disposal of Pb-based paint waste help facilitate the removal of Pb-based paint from residences (68 FR 36487, June 18, 2003).

Federal programs to reduce exposure to Pb in paint, dust, and soil are specified under the comprehensive federal regulatory framework developed under the Residential Lead-Based Paint Hazard Reduction Act (Title X). Under Title X (codified as Title IV of the Toxic Substances Control Act [TSCA]), the EPA has established regulations and associated programs in six categories: (1) Training, certification and work practice requirements for persons engaged in Pb-based paint activities (abatement, inspection and risk assessment); accreditation of training providers; and authorization of state and tribal Pb-based paint programs; (2) training, certification, and work practice requirements for persons engaged in home renovation, repair and painting (RRP) activities; accreditation of RRP training providers; and authorization of state and tribal RRP programs; (3) ensuring that, for most housing constructed before 1978, information about Pb-based paint and Pb-based paint hazards flows from sellers to purchasers, from landlords to tenants, and from renovators to owners and occupants; (4) establishing standards for identifying dangerous levels of Pb in paint, dust and soil; (5) providing grant funding to establish and maintain state and tribal Pb-based paint programs; and (6) providing information on Pb hazards to the public, including steps that people can take to protect themselves and their families from Pb-based paint hazards. The most recent rule issued under Title IV of TSCA is for the Lead Renovation, Repair and Painting Program (73 FR 21692, April 22, 2008), which became fully effective in April 2010 and which applies to compensated renovators and maintenance professionals who perform RRP activities in housing and child-care facilities built prior to 1978. To foster adoption of the rule's measures, the EPA has been conducting an extensive education and outreach campaign to promote awareness of these new requirements among both the regulated entities and the consumers who hire them (*http://www2.epa.gov/lead/renovation-repair-and-painting-program*). In addition, the EPA is investigating whether Pb hazards are also created by RRP activities in public and commercial buildings, in which case the EPA plans to issue RRP requirements, where appropriate, for this class of buildings (79 FR 31072, May 30, 2014).

Programs associated with the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA or Superfund) and Resource Conservation Recovery Act (RCRA) also implement abatement programs, reducing exposures to Pb and other pollutants. For example, the EPA determines and implements protective levels for Pb in soil at Superfund sites and RCRA corrective action facilities. Federal programs, including those implementing RCRA, provide for management of hazardous substances in hazardous and municipal solid waste (*e.g.,* 66 FR 58258, November 20, 2001). Federal regulations concerning batteries in municipal solid waste facilitate the collection and recycling or proper disposal of batteries containing Pb.[6] Similarly, federal programs provide for the reduction in environmental releases of hazardous substances such as Pb in the management of wastewater (*http://www.epa.gov/owm/*).

A variety of federal nonregulatory programs also provide for reduced environmental release of Pb-containing materials by encouraging pollution prevention, promotion of reuse and recycling, reduction of priority and toxic chemicals in products and waste, and conservation of energy and materials. These include the ''Resource Conservation Challenge'' (*http://www.epa.gov/epaoswer/osw/conserve/index.htm*), the ''National Waste Minimization Program'' (*http://www.epa.gov/epaoswer/hazwaste/minimize/leadtire.htm*), ''Plug in to eCycling'' (a partnership between the EPA and consumer electronics manufacturers and retailers; *http://www.epa.gov/epaoswer/hazwaste/recycle/electron/crt.htm#crts*), and activities to reduce the practice of backyard trash burning (*http://www.epa.gov/msw/backyard/pubs.htm*).

The EPA's research program identifies, encourages and conducts research needed to locate and assess serious risks and to develop methods and tools to characterize and help reduce risks related to Pb exposure. For example, the EPA's Integrated Exposure Uptake Biokinetic Model for Lead in Children (IEUBK model) is widely used and accepted as a tool that informs the evaluation of site-specific data. More recently, in recognition of the need for a single model that predicts Pb concentrations in tissues for children and adults, the EPA has been developing the All Ages Lead Model (AALM) to provide researchers and risk assessors with a pharmacokinetic model capable of estimating blood, tissue, and bone concentrations of Pb based on estimates of exposure over the lifetime of the individual (USEPA, 2006a, sections 4.4.5 and 4.4.8; USEPA, 2013a, section 3.6). The EPA's research activities on substances including Pb, such as those identified here, focus on improving our characterization of health and environmental effects, exposure, and control or management of environmental releases (see *http://www.epa.gov/research/*).

Other federal agencies also participate in programs intended to reduce Pb exposures. For example, programs of the Centers for Disease Control and Prevention (CDC) provide for the tracking of children's blood Pb levels in the U.S. and provide guidance on levels at which medical and environmental case management activities should be implemented (CDC, 2012; ACCLPP, 2012). As a result of coordinated, intensive efforts at the national, state and local levels, including those programs described above, blood Pb levels in all segments of the population have continued to decline from levels observed in the past. For example, blood Pb levels for the general population of children 1 to 5 years of age have dropped to a geometric mean level of 1.17 μg/dL in the 2009–2010 National Health and Nutrition Examination Survey (NHANES) as compared to the geometric mean in 1999–2000 of 2.23 μg/dL and in 1988–1991 of 3.6 μg/dL (USEPA, 2013a, section 3.4.1; USEPA, 2006a, AX4–2). Similarly, blood Pb levels in non-Hispanic black, Mexican American and lower socioeconomic groups, which are generally higher than those for the general population, have

[5] Effective in January 2014, the amount of Pb permitted in pipes, fittings, and fixtures was lowered (see ''Summary of the Reduction of Lead in Drinking Water Act and Frequently Asked Questions'' at *http://water.epa.gov/drink/info/lead/index.cfm*).

[6] See, *e.g.,* ''Implementation of the Mercury-Containing and Rechargeable Battery Management Act'' at *http://www.epa.gov/epawaste/hazard/recycling/battery.pdf* and ''Municipal Solid Waste Generation, Recycling, and Disposal in the United States: Facts and Figures for 2005 *http://www.epa.gov/epawaste/nonhaz/municipal/pubs/msw-2005.pdf.*

also declined (USEPA, 2013a, sections 3.4.1, 5.2.3 and 5.2.4; Jones et al., 2009).

The EPA also participates in a broad range of international programs focused on reducing environmental releases and human exposures in other countries. For example, the Partnership for Clean Fuels and Vehicles program engages governments and stakeholders in developing countries to eliminate Pb in gasoline globally.[7] From 2007 to 2011, the number of countries known to still be using leaded gasoline was reduced from just over 20 to six, with three of the six also offering unleaded fuel. All six were expected to eliminate Pb from fuel in the near future (USEPA, 2011c). The EPA is a contributor to the Global Alliance to Eliminate Lead Paint, a cooperative initiative jointly led by the World Health Organization and the United Nations Environment Programme (UNEP) to focus and catalyze the efforts to achieve international goals to prevent children's Pb exposure from paints containing Pb and to minimize occupational exposures to Pb paint. This alliance has the broad objective of promoting a phase-out of the manufacture and sale of paints containing Pb and eventually to eliminate the risks that such paints pose. The UNEP is also engaged on the problem of managing wastes containing Pb, including Pb-containing batteries. The Governing Council of the UNEP, of which the U.S. is a member, has adopted decisions focused on promoting the environmentally sound management of products, wastes and contaminated sites containing Pb and reducing risks to human health and the environment from Pb and cadmium throughout the life cycles of those substances (UNEP Governing Council, 2011, 2013). The EPA is also engaged in the issue of environmental impacts of spent Pb-acid batteries internationally through the Commission for Environmental Cooperation (CEC), where the EPA Administrator along with the cabinet-level or equivalent representatives of Mexico and Canada comprise the CEC's senior governing body (CEC Council).[8]

C. Review of the Air Quality Criteria and Standards for Lead

Unlike pollutants such as particulate matter and carbon monoxide, air quality criteria had not been issued for Pb as of the enactment of the CAA of 1970, which first set forth the requirement to set NAAQS based on air quality criteria. In the years just after enactment of the CAA, the EPA did not list Pb under Section 108 of the Act, having determined to control Pb air pollution through regulations to phase out the use of Pb additives in gasoline (See 41 FR 14921, April 8, 1976). However, the decision not to list Pb under Section 108 was challenged by environmental and public health groups, and the U.S. District Court for the Southern District of New York concluded that the EPA was required to list Pb under Section 108. *Natural Resources Defense Council* v. *EPA,* 411 F. Supp. 864 21 (S.D. N.Y. 1976), affirmed, 545 F.2d 320 (2d Cir. 1978). Accordingly, on April 8, 1976, the EPA published a notice in the **Federal Register** that Pb had been listed under Section 108 as a criteria pollutant (41 FR 14921, April 8, 1976) and on October 5, 1978, the EPA promulgated primary and secondary NAAQS for Pb under Section 109 of the Act (43 FR 46246, October 5, 1978). Both primary and secondary standards were set at a level of 1.5 micrograms per cubic meter ($\mu g/m^3$), measured as Pb in total suspended particles (Pb–TSP), not to be exceeded by the maximum arithmetic mean concentration averaged over a calendar quarter. These standards were based on the 1977 *Air Quality Criteria for Lead* (USEPA, 1977).

The first review of the Pb standards was initiated in the mid-1980s. The scientific assessment for that review is described in the 1986 *Air Quality Criteria for Lead* (USEPA, 1986a; henceforth referred to as the 1986 CD), the associated Addendum (USEPA, 1986b) and the 1990 Supplement (USEPA, 1990a). As part of the review, the agency designed and performed human exposure and health risk analyses (USEPA, 1989), the results of which were presented in a 1990 Staff Paper (USEPA, 1990b). Based on the scientific assessment and the human exposure and health risk analyses, the 1990 Staff Paper presented recommendations for consideration by the Administrator (USEPA, 1990b). After consideration of the documents developed during the review and the significantly changed circumstances since Pb was listed in 1976, the agency did not propose any revisions to the 1978 Pb NAAQS. In a parallel effort, the agency developed the broad, multi-program, multimedia, integrated *U.S. Strategy for Reducing Lead Exposure* (USEPA, 1991). As part of implementing this strategy, the agency focused efforts primarily on regulatory and remedial clean-up actions aimed at reducing Pb exposures from a variety of nonair sources judged to pose more extensive public health risks to U.S. populations, as well as on actions to reduce Pb emissions to air, such as bringing more areas into compliance with the existing Pb NAAQS (USEPA, 1991). The EPA continues this broad, multi-program, multimedia approach to reducing Pb exposures today, as described in section I.B above.

The last review of the Pb air quality criteria and standards was initiated in November 2004 (69 FR 64926, November 9, 2004); the agency's plans for preparation of the Air Quality Criteria Document and conduct of the NAAQS review were presented in documents completed in 2005 and early 2006 (USEPA, 2005a; USEPA 2006b).[9] The schedule for completion of the review was governed by a judicial order in *Missouri Coalition for the Environment* v. *EPA* (No. 4:04CV00660 ERW, September 14, 2005; and amended on April 29, 2008 and July 1, 2008).

The scientific assessment for the review is described in the 2006 *Air Quality Criteria for Lead* (USEPA, 2006a; henceforth referred to as the 2006 CD), multiple drafts of which received review by CASAC and the public. The EPA also conducted human exposure and health risk assessments and a pilot ecological risk assessment for the review, after consultation with CASAC and receiving public comment on a draft analysis plan (USEPA, 2006c). Drafts of these quantitative assessments were reviewed by CASAC and the public. The pilot ecological risk assessment was released in December 2006 (ICF International, 2006), and the final health risk assessment report was released in November 2007 (USEPA, 2007a). The policy assessment, based on both of these assessments, air quality analyses and key evidence from the 2006 CD, was presented in the Staff Paper (USEPA, 2007b), a draft of which also received CASAC and public review. The final Staff Paper presented OAQPS staff's evaluation of the public health and welfare policy implications of the key studies and scientific information contained in the 2006 CD and presented and interpreted results from the quantitative risk/exposure analyses

[7] International programs in which the U.S. participates, including those identified here, are described at: *http://epa.gov/international/air/pcfv.html, http://www.unep.org/transport/pcfv/, http://www.unep.org/hazardoussubstances/Home/tabid/197/hazardoussubstances/LeadCadmium/PrioritiesforAction/GAELP/tabid/6176/Default.aspx.*

[8] The CEC was established to support cooperation among the North American Free Trade Agreement partners to address environmental issues of continental concern, including the environmental challenges and opportunities presented by continent-wide free trade.

[9] In the current review, these two documents have been combined in the *Integrated Review Plan for the National Ambient Air Quality Standards for Lead* (USEPA, 2011a).

conducted for this review. Based on this evaluation, the Staff Paper presented OAQPS staff recommendations that the Administrator give consideration to substantially revising the primary and secondary standards to a range of levels at or below 0.2 μg/m³.

Immediately subsequent to completion of the Staff Paper, the EPA issued an advance notice of proposed rulemaking (ANPR) that was signed by the Administrator on December 5, 2007 (72 FR 71488, December 17, 2007).[10] CASAC provided advice and recommendations to the Administrator with regard to the Pb NAAQS based on its review of the ANPR and the previously released final Staff Paper and risk assessment reports. In 2008, the proposed decision on revisions to the Pb NAAQS was signed on May 1 and published in the **Federal Register** on May 20 (73 FR 29184, May 20, 2008). Members of the public provided comments and the CASAC Pb Panel also provided advice and recommendations to the Administrator based on its review of the proposal notice. The final decision on revisions to the Pb NAAQS was signed on October 15, 2008, and published in the **Federal Register** on November 12, 2008 (73 FR 66964, November 12, 2008).

The November 2008 notice described the EPA's decision to revise the primary and secondary NAAQS for Pb, as discussed more fully in section II.A.1 below. In consideration of the much-expanded health effects evidence on neurocognitive effects of Pb in children, the EPA substantially revised the primary standard from a level of 1.5 μg/m³ to a level of 0.15 μg/m³. The averaging time was revised to a rolling 3-month period with a maximum (not-to-be-exceeded) form, evaluated over a 3-year period. The indicator of Pb–TSP was retained, reflecting the evidence that Pb particles of all sizes pose health risks. The secondary standard was revised to be identical in all respects to the revised primary standard (40 CFR 50.16). Revisions to the NAAQS were accompanied by revisions to the data handling procedures, the treatment of exceptional events and the ambient air monitoring and reporting requirements, as well as emissions inventory reporting requirements. One aspect of the revised data handling requirements is the allowance for the use of monitoring for particulate matter with mean diameter below 10 microns (Pb–PM_{10}) for Pb NAAQS attainment purposes in certain limited circumstances at non-source-oriented sites. Subsequent to the 2008 rulemaking, additional revisions were made to the monitoring network requirements (75 FR 81126, December 27, 2010). Guidance on the approach for implementation of the new standards was described in the **Federal Register** notices for the proposed and final rules (73 FR 29184, May 20, 2008; 73 FR 66964, November 12, 2008).

On February 26, 2010, the EPA formally initiated its current review of the air quality criteria and standards for Pb, requesting the submission of recent scientific information on specified topics (75 FR 8934, February 26, 2010). Soon after this, the EPA held a workshop to discuss the policy-relevant science, which informed identification of key policy issues and questions to frame the review of the Pb NAAQS (75 FR 20843, April 21, 2010). Drawing from the workshop discussions, the EPA developed the draft Integrated Review Plan (draft IRP, USEPA, 2011d). The draft IRP was made available in late March 2011 for consultation with the CASAC Pb Review Panel and for public comment (76 FR 20347, April 12, 2011). This document was discussed by the Panel via a publicly accessible teleconference consultation on May 5, 2011 (76 FR 21346, April 15, 2011; Frey, 2011a). The final *Integrated Review Plan for the National Ambient Air Quality Standards for Lead* (IRP), developed in consideration of the CASAC consultation and public comment, was released in November 2011 (USEPA, 2011a; 76 FR 76972, December 9, 2011).

In developing the Integrated Science Assessment (ISA) for this review, the EPA held a workshop in December 2010 to discuss with invited scientific experts preliminary draft materials and released the first external review draft of the document for CASAC review and public comment in May 2011 (USEPA, 2011e; 76 FR 26284, May 6, 2011; 76 FR 36120, June 21, 2011). The CASAC Pb Review Panel met at a public meeting on July 20, 2011, to review the draft ISA (76 FR 36120, June 21, 2011). The CASAC provided comments in a December 9, 2011, letter to the EPA Administrator (Frey and Samet, 2011). The second external review draft ISA was released for CASAC review and public comment in February 2012 (USEPA, 2012a; 77 FR 5247, February 2, 2012) and was the subject of a public meeting on April 10–11, 2012 (77 FR 14783, March 13, 2012). The CASAC provided comments in a July 20, 2012, letter (Samet and Frey, 2012). The third external review draft was released for CASAC review and public comment in November 2012 (USEPA, 2012b; 77 FR 70776, November 27, 2012) and was the subject of a public meeting on February 5–6, 2013 (78 FR 938, January 7, 2013). The CASAC provided comments in a June 4, 2013, letter (Frey, 2013a). The final ISA was released in late June 2013 (USEPA, 2013a, henceforth referred to as the ISA; 78 FR 38318, June 26, 2013).

In June 2011, the EPA developed and released the *Risk and Exposure Assessment Planning Document* (REA Planning Document) for consultation with CASAC and public comment (USEPA, 2011b; 76 FR 58509). This document presented a critical evaluation of the information related to Pb human and ecological exposure and risk (*e.g.,* data, modeling approaches) newly available in this review, with a focus on consideration of the extent to which new or substantially revised REAs for health and ecological risk might be warranted by the newly available evidence. Evaluation of the newly available information with regard to designing and implementing health and ecological REAs for this review led us to conclude that the currently available information did not provide a basis for developing new quantitative risk and exposure assessments that would have substantially improved utility for informing the agency's consideration of health and welfare effects and evaluation of the adequacy of the current primary and secondary standards, respectively (REA Planning Document, sections 2.3 and 3.3, respectively). The CASAC Pb Review Panel provided consultative advice on that document and its conclusions at a public meeting on July 21, 2011 (76 FR 36120, June 21, 2011; Frey, 2011b). Based on their consideration of the REA Planning Document analysis, the CASAC Pb Review Panel generally concurred with the conclusion that a new REA was not warranted in this review (Frey, 2011b; Frey, 2013b). In consideration of the conclusions reached in the REA Planning Document and CASAC's consultative advice, the EPA has not developed REAs for health and ecological risk for this review. Accordingly, we consider the risk assessment findings from the last review for human exposure and health risk (USEPA, 2007a, henceforth referred to as the 2007 REA) and ecological risk (ICF International, 2006; henceforth referred to as the 2006 REA) with regard to any appropriate further interpretation in light of the evidence newly available in this review.

A draft of the Policy Assessment (PA) was released for public comment and review by CASAC in January 2013 (USEPA, 2013b; 77 FR 70776, November

[10] The ANPR, one of the features of the revised NAAQS review process that EPA instituted in 2006, was replaced by reinstatement of the Policy Assessment prepared by OAQPS staff (previously termed the OAQPS Staff Paper) in 2009 (Jackson, 2009).

27, 2012) and was the subject of a public meeting on February 5–6, 2013 (78 FR 938, January 7, 2013). Comments provided by the CASAC in a June 4, 2013 letter (Frey, 2013b), as well as public comments received on the draft PA were considered in preparing the final PA, which was released in May 2014 (USEPA, 2014; 79 FR 26751, May 9, 2014).

D. Multimedia, Multipathway Aspects of Lead

Since Pb distributes from air to other media and is persistent, our review of the NAAQS for Pb considers the protection provided against such effects associated both with exposures to Pb in ambient air and with exposures to Pb that makes its way into other media from ambient air. Additionally, in assessing the adequacy of protection afforded by the current NAAQS, we are mindful of the long history of greater and more widespread atmospheric emissions that occurred in previous years (both before and after establishment of the 1978 NAAQS) and that contributed to the Pb that exists in human populations and ecosystems today. Likewise, we also recognize the role of other, nonair sources of Pb now and in the past that also contribute to the Pb that exists in human populations and ecosystems today.

Lead emitted to ambient air is transported through the air and is also distributed from air to other media. This multimedia distribution of Pb emitted into ambient air (air-related Pb) contributes to multiple air-related pathways of human and ecosystem exposure (ISA, sections 3.1.1 and 3.7.1). Air-related pathways may also involve media other than air, including indoor and outdoor dust, soil, surface water and sediments, vegetation and biota. Air-related Pb exposure pathways for humans include inhalation of ambient air or ingestion of food, water or other materials, including dust and soil, that have been contaminated through a pathway involving Pb deposition from ambient air (ISA, section 3.1.1.1). Ambient air inhalation pathways include both inhalation of air outdoors and inhalation of ambient air that has infiltrated into indoor environments. The air-related ingestion pathways occur as a result of Pb passing through the ambient air, being distributed to other environmental media and contributing to human exposures via contact with and ingestion of indoor and outdoor dusts, outdoor soil, food and drinking water.

Lead exposures via the various inhalation and ingestion air-related pathways may vary with regard to the time in which they respond to changes in air Pb concentrations. For example, exposures resulting from human exposure pathways most directly involving Pb in ambient air and exchanges of ambient air with indoor air (*e.g.,* inhalation) can respond most quickly, while those for pathways involving exposure to Pb deposited from ambient air into the environment (*e.g.,* diet) may be expected to respond more slowly. The extent of this will be influenced by the magnitude of change, as well as—for deposition-related pathways—the extent of prior deposition and environment characteristics influencing availability of prior deposited Pb.

Lead currently occurring in nonair media may also derive from sources other than ambient air (nonair Pb sources) (ISA, sections 2.3 and 3.7.1). For example, Pb in dust inside some houses or outdoors in some urban areas may derive from the common past usage of leaded paint, while Pb in drinking water may derive from the use of leaded pipe or solder in drinking water distribution systems (ISA, section 3.1.3.3). We also recognize the history of much greater air emissions of Pb in the past, such as that associated with leaded gasoline usage and higher industrial emissions which have left a legacy of Pb in other (nonair) media.

The relative importance of different pathways of human exposure to Pb, as well as the relative contributions from Pb resulting from recent and historic air emissions and from nonair sources, vary across the U.S. population as a result of both extrinsic factors, such as a home's proximity to industrial Pb sources or its history of leaded paint usage, and intrinsic factors, such as a person's age and nutritional status (ISA, sections 5.1, 5.2, 5.2.1, 5.2.5 and 5.2.6). Thus, the relative contributions from specific pathways is situation specific (ISA, p. 1–11), although a predominant Pb exposure pathway for very young children is the incidental ingestion of indoor dust by hand-to-mouth activity (ISA, section 3.1.1.1). For adults, however, diet may be the primary Pb exposure pathway (2006 CD, section 3.4). Similarly, the relative importance of air-related and nonair-related Pb also varies with the relative magnitudes of exposure by those pathways, which may vary with different circumstances.

The distribution of Pb from ambient air to other environmental media also influences the exposure pathways for organisms in terrestrial and aquatic ecosystems. Exposure of terrestrial animals and vegetation to air-related Pb can occur by contact with ambient air or by contact with soil, water or food items that have been contaminated by Pb from ambient air (ISA, section 6.2). Transport of Pb into aquatic systems similarly provides for exposure of biota in those systems, and exposures may vary among systems as a result of differences in sources and levels of contamination, as well as characteristics of the systems themselves, such as salinity, pH and turbidity (ISA, section 2.3.2). In addition to Pb contributed by current atmospheric deposition, Pb may occur in aquatic systems as a result of nonair sources such as industrial discharges or mine-related drainage, of historical air Pb emissions (*e.g.,* contributing to deposition to a water body or via runoff from soils near historical air sources) or combinations of different types of sources (*e.g.,* resuspension of sediments contaminated by urban runoff and surface water discharges).

The persistence of Pb contributes an important temporal aspect to lead's environmental pathways, and the time (or lag) associated with realization of the impact of air Pb concentrations on concentrations in other media can vary with the media (*e.g.,* ISA, section 6.2.2). For example, exposure pathways most directly involving Pb in ambient air or surface waters can respond more quickly to changes in ambient air Pb concentrations while pathways involving exposure to Pb in soil or sediments generally respond more slowly. An additional influence on the response time for nonair media is the environmental presence of Pb associated with past, generally higher, air concentrations. For example, after a reduction in air Pb concentrations, the time needed for sediment or surface soil concentrations to indicate a response to reduced air Pb concentrations might be expected to be longer in areas of more substantial past contamination than in areas with lesser past contamination. Thus, considering the Pb concentrations occurring in nonair environmental media as a result of air quality conditions that meet the current NAAQS is a complexity of this review, as it also was, although to a lesser degree, with regard to the prior standard in the last review.

E. Air Quality Monitoring

Lead emitted to the air is predominantly in particulate form. Once emitted, particle-bound Pb can be transported long or short distances depending on particle size, which influences the amount of time spent in the aerosol phase. In general, larger particles tend to deposit more quickly, within shorter distances from emissions points, while smaller particles remain in aerosol phase and travel longer

distances before depositing (ISA, section 1.2.1). Accordingly, airborne concentrations of Pb near sources are much higher (and the representation of larger particles generally greater) than at sites not directly influenced by sources (PA, Figure 2–11; ISA sections 2.3.1 and 2.5.3).

Ambient air monitoring data for Pb, in terms of Pb–TSP, Pb–PM_{10} or Pb in particulate matter with mean diameter smaller than 2.5 microns (Pb–$PM_{2.5}$), are currently collected in several national networks. Monitoring conducted for purposes of Pb NAAQS surveillance is regulated to ensure accurate and comparable data for determining compliance with the NAAQS. In order to be used in NAAQS attainment designations, ambient Pb concentration data must be obtained using either the federal reference method (FRM) or a federal equivalent method (FEM). The FRMs for sample collection and analysis are specified in 40 CFR part 50. The procedures for approval of FRMs and FEMs are specified in 40 CFR part 53. In 2013, after consultation with CASAC's Ambient Air Monitoring and Methods Subcommittee, the EPA adopted a new FRM for Pb–TSP, based on inductively coupled plasma-mass spectrometry (78 FR 40000, July 3, 2013). The previous FRM was retained as an FEM, and existing FEMs were retained as well.

The Pb monitoring network design requirements (40 CFR part 58, Appendix D, paragraph 4.5) include two types of monitoring sites—source-oriented monitoring sites and non-source-oriented monitoring sites—as well as the collection of a year of Pb–TSP measurements at 15 specific airports. The indicator for the current Pb NAAQS is Pb–TSP, although in some situations,[11] ambient Pb–PM_{10} concentrations may be used in judging nonattainment. Currently, approximately 260 Pb–TSP monitors are in operation; these are a mixture of source- and non-source-oriented monitors.

Since the phase-out of Pb in on-road gasoline, Pb is widely recognized as a source-oriented air pollutant. Variability in air Pb concentrations is highest in areas including a Pb source, ''with high concentrations downwind of the sources and low concentration at areas far from sources'' (ISA, p. 2–92). The current requirements for source-oriented monitoring include placement of monitor sites near sources of air Pb emissions which are expected to or have been shown to contribute to ambient air Pb concentrations in excess of the NAAQS. At a minimum, there must be one source-oriented site located to measure the maximum Pb concentration in ambient air resulting from each non-airport Pb source which emits 0.50 or more tons of Pb per year and from each airport which emits 1.0 or more tons of Pb per year.[12] The EPA Regional Administrators may require additional monitoring beyond the minimum requirements where the likelihood of Pb air quality violations is significant. Such locations may include those near additional industrial Pb sources, recently closed industrial sources and other sources of resuspended Pb dust, as well as airports where piston-engine aircraft emit Pb associated with combustion of leaded aviation fuel (40 CFR part 58, Appendix D, section 4.5(c)). A single year of monitoring was also required near 15 specific airports[13] in order to gather additional information on the likelihood of NAAQS exceedances due to the combustion of leaded aviation gasoline (75 FR 81126, December 27, 2010; 40 CFR part 58, Appendix D, 4.5(a)(iii)). These airport monitoring data along with other data gathering and analyses will inform the EPA's ongoing investigation into the potential for Pb emissions from piston-engine aircraft to cause or contribute to air pollution that may reasonably be anticipated to endanger public health or welfare. This investigation is occurring under section 231 of the CAA, separate from the Pb NAAQS review. As a whole, the various data gathering and analyses are expected to improve our understanding of Pb concentrations in ambient air near airports and conditions influencing these concentrations.

Monitoring agencies are also required, under 40 CFR part 58, Appendix D, to conduct non-source-oriented Pb monitoring at the NCore sites[14] required in metropolitan areas with a population of 500,000 or more (as defined by the U.S. Census Bureau).[15] Either Pb–TSP or Pb–PM_{10} monitoring may be performed at these sites. Currently, all 50 NCore Pb sites are operational and measuring Pb concentrations, with 28 measuring Pb in TSP and 24 measuring Pb in PM_{10} (2 sites are measuring both Pb in TSP and Pb in PM_{10}). In a separate action addressing a range of issues related to monitoring requirements for criteria pollutants, the EPA is proposing to remove the requirement for Pb monitoring at NCore sites (79 FR 54395, September 11, 2014). This change is being proposed in consideration of current information indicating concentrations at these sites to be well below the Pb NAAQS and of the presence of other monitoring networks that provide information on Pb concentrations in urban areas not directly impacted by Pb sources. The data available for these sites indicate maximum 3-month average concentrations (of Pb–PM_{10} or Pb–TSP) well below the level of the Pb NAAQS, with the vast majority of sites showing concentrations less than 0.01 $\mu g/m^3$. Additionally, other monitoring networks provide data on Pb in PM_{10} or $PM_{2.5}$, at non-source-oriented urban, and some rural, sites. These include the National Air Toxics Trends Stations for PM_{10} and the Chemical Speciation Network for $PM_{2.5}$. Data on Pb in $PM_{2.5}$ are also provided at the rural sites of the Interagency Monitoring of Protected Visual Environments network.

The long-term record of Pb monitoring data documents the dramatic decline in atmospheric Pb concentrations that has occurred since the 1970s in response to reduced emissions (PA, Figures 2–1 and 2–7). Currently, the highest concentrations occur near some metals industries where some individual locations have concentrations that exceed the NAAQS (PA, Figure 2–10). Concentrations at non-source-oriented monitoring sites are much lower than those at source-oriented sites and well below the standard (PA, Figure 2–11).

[11] The Pb–PM_{10} measurements may be used for NAAQS monitoring as an alternative to Pb–TSP measurements in certain conditions defined in 40 CFR part 58, Appendix C, section 2.10.1.2. These conditions include where Pb concentrations are not expected to equal or exceed 0.10 $\mu g/m^3$ as an arithmetic 3-month mean and where the source of Pb emissions is expected to emit a substantial majority of its Pb in the size fraction captured by PM_{10} monitors.

[12] The Regional Administrator may waive this requirement for monitoring near Pb sources if the state or, where appropriate, local agency can demonstrate the Pb source will not contribute to a maximum 3-month average Pb concentration in ambient air in excess of 50 percent of the NAAQS level based on historical monitoring data, modeling, or other means (40 CFR part 58, Appendix D, section 4.5(a)(ii)).

[13] These airports were selected based on three criteria: annual Pb inventory between 0.5 ton/year and 1.0 ton/year, ambient air within 150 meters of the location of maximum emissions (*e.g.,* the end of the runway or run-up location), and airport configuration and meteorological scenario that leads to a greater frequency of operations from one runway. These criteria are expected, collectively, to identify airports with the highest potential to have ambient air Pb concentrations approaching or exceeding the Pb NAAQS (75 FR 81126).

[14] The NCore network, that formally began in January 2011, is a subset of the state and local air monitoring stations network that is intended to meet multiple monitoring objectives (*e.g.*, long-term trends analysis, model evaluation, health and ecosystem studies, as well as NAAQS compliance). The complete NCore network consists of 63 urban and 15 rural stations, with each state containing at least one NCore station; 46 of the states plus Washington, DC and Puerto Rico have at least one urban station.

[15] *http://www.census.gov/population/www/metroareas/metroarea.html.*

II. Rationale for Proposed Decision on the Primary Standard

This section presents the rationale for the Administrator's proposed decision to retain the existing Pb primary standard. As discussed more fully below, this rationale is based on a thorough review, in the ISA, of the latest scientific information, generally published through September 2011,[16] on human health effects associated with Pb and pertaining to the presence of Pb in the ambient air. This proposal also takes into account: (1) The PA's staff assessments of the most policy-relevant information in the ISA and staff analyses of air quality, human exposure and health risks, upon which staff conclusions regarding appropriate considerations in this review are based; (2) CASAC advice and recommendations, as reflected in discussions of drafts of the ISA and PA at public meetings, in separate written comments, and in CASAC's letters to the Administrator; and (3) public comments received during the development of these documents, either in connection with CASAC meetings or separately.

In presenting the rationale and its foundations, section II.A provides background on the general approach for review of the primary NAAQS for Pb, including a summary of the approach used in the last review (section II.A.1) and the general approach for the current review (section II.A.2). Sections II.B and II.C summarize the body of evidence supporting this rationale, focusing on consideration of key policy-relevant questions, and section II.D summarizes the exposure/risk information for this review. Section II.E presents the Administrator's proposed conclusions on adequacy of the current standard, drawing on both evidence-based and exposure/risk-based considerations (sections II.E.1 and II.E.2), and advice from CASAC (section II.E.3).

A. General Approach

The past and current approaches described below are both based, most fundamentally, on using the EPA's assessment of the current scientific evidence and associated quantitative analyses to inform the Administrator's judgment regarding a primary standard for Pb that protects public health with an adequate margin of safety. We note that in drawing conclusions with regard to the primary standard, the final decision on the adequacy of the current standard is largely a public health policy judgment to be made by the Administrator. The Administrator's final decision must draw upon scientific information and analyses about health effects, population exposure and risks, as well as judgments about how to consider the range and magnitude of uncertainties that are inherent in the scientific evidence and analyses. Our approach to informing these judgments, discussed more fully below, is based on the recognition that the available health effects evidence generally reflects a continuum, consisting of levels at which scientists generally agree that health effects are likely to occur, through lower levels at which the likelihood and magnitude of the response become increasingly uncertain. This approach is consistent with the requirements of the NAAQS provisions of the Act and with how the EPA and the courts have historically interpreted the Act. These provisions require the Administrator to establish primary standards that, in the judgment of the Administrator, are requisite to protect public health with an adequate margin of safety. In so doing, the Administrator seeks to establish standards that are neither more nor less stringent than necessary for this purpose. The Act does not require that primary standards be set at a zero-risk level, but rather at a level that avoids unacceptable risks to public health including the health of sensitive groups.[17] The four basic elements of the NAAQS (indicator, averaging time, level, and form) are considered collectively in evaluating the health protection afforded by the current standard.

1. Approach in the Last Review

The last review of the NAAQS for Pb was completed in 2008 (73 FR 66964, November 12, 2008). The 2008 decision to substantially revise the primary standard was based on the extensive body of scientific evidence published over almost three decades, from the time the standard was originally set in 1978 through 2005–2006. In so doing, the 2008 decision considered the body of evidence as assessed in the 2006 CD (USEPA, 2006a), as well as the 2007 Staff Paper assessment of the policy-relevant information contained in the CD and the quantitative risk/exposure assessment (USEPA, 2007a, 2007b), the advice and recommendations of CASAC (Henderson 2007a, 2007b, 2008a, 2008b), and public comment. While recognizing that Pb has been demonstrated to exert ''a broad array of deleterious effects on multiple organ systems,'' the review focused on the effects most pertinent to ambient air exposures, which given ambient air Pb reductions over the past 30 years, are those associated with relatively lower exposures and associated blood Pb levels (73 FR 66975, November 12, 2008). In so doing, the EPA recognized the general consensus that the developing nervous system in children is among the most sensitive health endpoints associated with Pb exposure, if not the most sensitive one. Thus, primary attention was given to consideration of nervous system effects, including neurocognitive and neurobehavioral effects, in children (73 FR 66976, November 12, 2008). The body of evidence included associations of such effects in study populations of variously aged children with mean blood Pb levels below 10 μg/dL, extending from 8 down to 2 μg/dL (73 FR 66976, November 12, 2008). The public health implications of effects of air-related Pb on cognitive function (*e.g.,* IQ) in young children were given particular focus in the review.

The conclusions reached by the Administrator in the last review were based primarily on the scientific evidence, with the risk- and exposure-based information providing support for various aspects of the decision. In reaching his conclusion on the adequacy of the then-current standard, which was set in 1978, the Administrator placed primary consideration on the large body of scientific evidence available in the review including significant new evidence concerning effects at blood Pb concentrations substantially below those identified when the standard was initially set (73 FR 66987, November 12, 2008; 43 FR 46246, October 5, 1978). Given particular attention was the robust evidence of neurotoxic effects of Pb exposure in children, recognizing: (1) That while blood Pb levels in U.S. children had decreased notably since the late 1970s, newer epidemiological studies had investigated and reported

[16] In addition to the review's opening ''call for information'' (75 FR 8934), ''literature searches were conducted routinely to identify studies published since the last review, focusing on studies published from 2006 (close of the previous scientific assessment) through September 2011,'' and references ''that were considered for inclusion or actually cited in this ISA can be found at *http://hero.epa.gov/lead*'' (ISA, p. 1–2).

[17] The at-risk population groups identified in a NAAQS review may include low-income or minority groups. Where low-income/minority groups are among the at-risk populations, the rulemaking decision will be based on providing protection for these and other at-risk populations and lifestages (*e.g.,* children, older adults, persons with pre-existing heart and lung disease). To the extent that low-income/minority groups are not among the at-risk populations identified in the ISA, a decision based on providing protection of the at-risk lifestages and populations would be expected to provide protection for the low-income/minority groups.

associations of effects on the neurodevelopment of children with those more recent lower blood Pb levels and (2) that the toxicological evidence included extensive experimental laboratory animal evidence substantiating well the plausibility of the epidemiological findings observed in human children and expanding our understanding of likely mechanisms underlying the neurotoxic effects (73 FR 66987, November 12, 2008). Additionally, within the range of blood Pb levels investigated in the available evidence base, a threshold level for neurocognitive effects was not identified (73 FR 66984, November 12, 2008; 2006 CD, p. 8–67). Further, the evidence indicated a steeper concentration-response (C–R) relationship for effects on cognitive function at those lower blood Pb levels than at higher blood Pb levels that were more common in the past, ''indicating the potential for greater incremental impact associated with exposure at these lower levels'' (73 FR 66987, November 12, 2008). As at the time when the standard was initially set in 1978, the health effects evidence and exposure/risk assessment available in the last review supported the conclusion that air-related Pb exposure pathways contribute to blood Pb levels in young children by inhalation and ingestion (73 FR 66987, November 12, 2008). The available information in the last review also indicated, however, a likely greater change in blood Pb per unit of air Pb than was estimated when the standard was initially set (73 FR 66987, November 12, 2008).

In the Administrator's decision on the adequacy of the 1978 standard, the Administrator considered the evidence using a very specifically defined framework, referred to as an air-related IQ loss evidence-based framework. This framework integrates evidence for the relationship between Pb in air and Pb in young children's blood with evidence for the relationship between Pb in young children's blood and IQ loss (73 FR 66987, November 12, 2008). This evidence-based approach considers air-related effects on neurocognitive function (using the quantitative metric of IQ loss) associated with exposure in those areas with elevated air concentrations equal to potential alternative levels for the Pb standard. In simplest terms, the framework focuses on children exposed to air-related Pb in those areas with elevated air Pb concentrations equal to specific potential standard levels, providing for estimation of a mean air-related IQ decrement for young children in the high end of the national distribution of air-related exposures. Thus, the conceptual context for the framework is that it provides estimates of air-related IQ loss for the subset of U.S. children living in close proximity to air Pb sources that contribute to such elevated air Pb concentrations. In such cases, when a standard of a particular level is just met at a monitor sited to record the highest source-oriented concentration in an area, the large majority of children in the larger surrounding area would likely experience exposures to concentrations well below that level.

The two primary inputs to the evidence-based air-related IQ loss framework are air-to-blood ratios and C–R functions for the relationship between blood Pb and IQ response in young children. Additionally taken into consideration in applying and drawing conclusions from the framework were the uncertainties inherent in these inputs. Application of the framework also entailed consideration of an appropriate level of protection from air-related IQ loss to be used in conjunction with the framework. The framework estimates of mean air-related IQ loss are derived through multiplication of the following factors: standard level (μg/m^3), air-to-blood ratio (albeit in terms of μg/dL blood Pb per μg/m^3 air concentration), and slope for the C–R function in terms of points IQ decrement per μg/dL blood Pb.

Based on the application of the air-related IQ loss framework to the evidence, the Administrator concluded that, for exposures projected for air Pb concentrations at the level of the 1978 standard, the quantitative estimates of IQ loss associated with air-related Pb indicated risk of a magnitude that, in his judgment, was significant from a public health perspective, and that the evidence-based framework supported a conclusion that the 1978 standard did not protect public health with an adequate margin of safety (73 FR 66987, November 12, 2008). The Administrator further concluded that the evidence indicated the need for a substantially lower standard level to provide increased public health protection, especially for at-risk groups (most notably children), against an array of effects, most importantly including effects on the developing nervous system (73 FR 66987, November 12, 2008). In addition to giving primary consideration to the much expanded evidence base since the standard was set, the Administrator also took into consideration the exposure/risk assessments. In so doing, he observed that, while taking into consideration their inherent uncertainties and limitations, the quantitative estimates of IQ loss associated with air-related Pb in air quality scenarios just meeting the then-current standard also indicated risk of a magnitude that, in his judgment, was significant from a public health perspective. Thus, the Administrator concluded the exposure/risk estimates provided additional support to the evidence-based conclusion that the standard needed revision (73 FR 66987, November 12, 2008).

In considering appropriate revisions to the prior standard in the review completed in 2008, each of the four basic elements of the NAAQS (indicator, averaging time, form and level) was evaluated. The rationale for decisions on those elements is summarized below.

With regard to indicator, consideration was given to replacing Pb–TSP with Pb–PM_{10}. The EPA recognized, however, that Pb in all particle sizes contributes to Pb in blood and associated health effects, additionally noting that the difference in particulate Pb captured by TSP and PM_{10} monitors may be on the order of a factor of two in some areas (73 FR 66991, November 12, 2008). Further, the Administrator recognized uncertainty with regard to whether a Pb–PM_{10}-based standard would also effectively control ultra-coarse [18] Pb particles, which may have a greater presence in areas near sources where Pb concentrations are highest (73 FR 66991, November 12, 2008). The Administrator decided to retain Pb–TSP as the indicator to provide sufficient public health protection from the range of particle sizes of ambient air Pb, including ultra-coarse particles (73 FR 66991, November 12, 2008). Additionally, a role was provided for Pb–PM_{10} in the monitoring required for a Pb–TSP standard (73 FR 66991, November 12, 2008) based on the conclusion that use of Pb–PM_{10} measurements at sites not influenced by sources of ultra-coarse Pb, and where Pb concentrations are well below the standard, would take advantage of the increased precision of these measurements and decreased spatial variation of Pb–PM_{10} concentrations, without raising the same concerns over a lack of protection against health risks from all particulate Pb emitted to the ambient air that

[18] The term ''ultra-coarse'' refers to particles collected by a TSP sampler but not by a PM_{10} sampler. This terminology is consistent with the traditional usage of ''fine'' to refer to particles collected by a $PM_{2.5}$ sampler, and ''coarse'' to refer to particles collected by a PM_{10} sampler but not by a $PM_{2.5}$ sampler, recognizing that there will be some overlap in the particle sizes in the three types of collected material.

support retention of Pb–TSP as the indicator (versus revision to Pb–PM_{10}) (73 FR 66991, November 12, 2008). Accordingly, allowance was made for the use of Pb–PM_{10} monitoring for Pb NAAQS attainment purposes in certain limited circumstances, at non-source-oriented sites, where the Pb concentrations are expected to be substantially below the standard and ultra-coarse particles are not expected to be present (73 FR 66991, November 12, 2008).

With regard to averaging time and form for the revised standard, consideration was given to a monthly averaging time, with a form of second maximum, and to 3-month and calendar quarter averaging times, with not-to-be exceeded forms. While the Administrator recognized that there were some factors that might imply support for a period as short as a month for averaging time, he also noted other factors supporting use of a longer time. He additionally took note of the complexity inherent in this consideration for the primary Pb standard, which is greater than in the case of other criteria pollutants due to the multimedia nature of Pb and its multiple pathways of human exposure. In this situation for Pb, the Administrator emphasized the importance of considering all of the relevant factors, both those pertaining to the human physiological response to changes in Pb exposures and those pertaining to the response of air-related Pb exposure pathways to changes in airborne Pb, in an integrated manner.

As discussed further in the PA, the evidence on human physiological response to changes in Pb exposure available in the last review indicated that children's blood Pb levels respond quickly to increased Pb exposure, particularly during the time of leaded gasoline usage but likely with lessened immediacy since that time as children's exposure pathways have changed (PA, section 4.1.1.2). The Administrator also recognized limitations and uncertainties in the evidence and variability with regard to the information regarding the response time of indoor dust Pb to ambient airborne Pb. In consideration of the uncertainty associated with the evidence, the Administrator noted that the two changes in form for the standard (to a rolling 3-month average and to providing equal weighting to each month in deriving the 3-month average) both afford greater weight to each individual month than did the calendar quarter form of the 1978 standard, tending to control both the likelihood that any month will exceed the level of the standard and the magnitude of any such exceedance. Thus, based on an integrated consideration of the range of relevant factors, the averaging time was revised to a rolling 3-month period with a maximum (not-to-be-exceeded) form, evaluated over a 3-year period. As compared to the previous averaging time and form of calendar quarter (not-to-be exceeded), this revision was considered to be more scientifically appropriate and more health protective (73 FR 66996, November 12, 2008). The rolling average gives equal weight to all 3-month periods, and the new calculation method gives equal weight to each month within each 3-month period (73 FR 66996, November 12, 2008). Further, the rolling average yields twelve 3-month averages each year to be compared to the NAAQS versus four averages in each year for the block calendar quarters pertaining to the previous standard (73 FR 66996, November 12, 2008).

Lastly, based on the body of scientific evidence and information available, as well as CASAC recommendations and public comment, the Administrator decided on a standard level that, in combination with the specified choice of indicator, averaging time, and form, he judged requisite to protect public health, including the health of sensitive groups, with an adequate margin of safety (73 FR 67006, November 12, 2008). In reaching the decision on level for the revised standard, the Administrator considered as a useful guide the evidence-based framework developed in that review. As described above, that framework integrates evidence for the relationship between Pb in air and Pb in children's blood and the relationship between Pb in children's blood and IQ loss. Application of the air-related IQ loss evidence-based framework was recognized, however, to provide ''no evidence- or risk-based bright line that indicates a single appropriate level'' for the standard (73 FR 67006, November 12, 2008). Rather, the framework was seen as a useful guide for consideration of health risks from exposure to ambient levels of Pb in the air, in the context of a specified averaging time and form, with regard to the Administrator's decision on a level for a revised NAAQS that provides public health protection that is sufficient but not more than necessary under the Act (73 FR 67004, November 12, 2008).

As noted above, use of the evidence-based air-related IQ loss framework to inform selection of a standard level involved consideration of the evidence with regard to two input parameters. The two input parameters are an air-to-blood ratio and a C–R function for population IQ response associated with blood Pb level (73 FR 67004, November 12, 2008). The evidence at the time of the last review indicated a broad range of air-to-blood ratio estimates,[19] each with limitations and associated uncertainties. Based on the then-available evidence, the Administrator concluded that 1:5 to 1:10 represented a reasonable range to consider and identified 1:7 as a generally central value on which to focus (73 FR 67004, November 12, 2008). With regard to C–R functions, in light of the evidence of nonlinearity and of steeper slopes at lower blood Pb levels, the Administrator concluded it was appropriate to focus on C–R analyses based on blood Pb levels that most closely reflected the then-current population of children in the U.S.,[20] recognizing the EPA's identification of four such analyses and giving weight to the central estimate or median of the resultant C–R functions (73 FR 67003, November 12, 2008, Table 3; 73 FR 67004, November 12, 2008). The median estimate for the four C–R slopes of −1.75 IQ points decrement per μg/dL blood Pb was selected for use with the framework. With the framework, potential alternative standard levels (μg/m^3) are multiplied by estimates of air-to-blood ratio (μg/dL blood Pb per μg/m^3 air Pb) and the median slope for the C–R function (points IQ decrement per μg/dL blood Pb), yielding estimates of a mean air-related IQ decrement for a specific subset of young children (*i.e.,* those children exposed to air-related Pb in areas with elevated air Pb concentrations equal to specified alternative levels). As such, the application of the framework yields estimates for the mean air-related IQ decrements of the subset of children expected to experience air-related Pb exposures at the high end of the distribution of such exposures. The associated mean IQ loss estimate is the average for this highly exposed subset and is not the average air-related IQ loss projected for the entire U.S. population of children. Uncertainties and limitations were recognized in the use

[19] The term ''air-to-blood ratio'' describes the increase in blood Pb (in μg/dL) estimated to be associated with each unit increase of air Pb (in μg/m^3). Ratios are presented in the form of 1:x, with the 1 representing air Pb (in μg/m^3) and x representing blood Pb (in μg/dL). Description of ratios as higher or lower refers to the values for x (*i.e.,* the change in blood Pb per unit of air Pb).

[20] The geometric mean blood Pb level for U.S. children aged 5 years and below, reported for NHANES in 2003–04 (the most recent years for which such an estimate was available at the time of the 2008 decision) was 1.8 μg/dL and the 5th and 95th percentiles were 0.7 μg/dL and 5.1 μg/dL, respectively (73 FR 67002).

of the framework and in the resultant estimates (73 FR 67000, November 12, 2008).

In considering the use of the evidence-based air-related IQ loss framework to inform his judgment as to the appropriate degree of public health protection that should be afforded by the NAAQS to provide requisite protection against risk of neurocognitive effects in sensitive populations, such as IQ loss in children, the Administrator recognized in the 2008 review that there were no commonly accepted guidelines or criteria within the public health community that would provide a clear basis for such a judgment. During the 2008 review, CASAC commented regarding the significance from a public health perspective of a 1–2 point IQ loss in the entire population of children and along with some commenters, emphasized that the NAAQS should prevent air-related IQ loss of a significant magnitude, such as on the order of 1–2 IQ points, in all but a small percentile of the population. Similarly, the Administrator stated that ''ideally air-related (as well as other) exposures to environmental Pb would be reduced to the point that no IQ impact in children would occur'' (73 FR 66998, November 12, 2008). The Administrator further recognized that, in the case of setting a NAAQS, he was required to make a judgment as to what degree of protection is requisite to protect public health with an adequate margin of safety (73 FR 66998, November 12, 2008). The NAAQS must be sufficient but not more stringent than necessary to achieve that result, and the Act does not require a zero-risk standard (73 FR 66998, November 12, 2008). The Administrator additionally recognized that the evidence-based air-related IQ loss framework did not provide estimates pertaining to the U.S. population of children as a whole. Rather, the framework provided estimates (with associated uncertainties and limitations) for the mean of a subset of that population, the subset of children assumed to be exposed to the level of the standard. As described in the final decision ''[t]he framework in effect focuses on the sensitive subpopulation that is the group of children living near sources and more likely to be exposed at the level of the standard'' (73 FR 67000, November 12, 2008). As further noted in the final decision (73 FR 67000, November 12, 2008):

EPA is unable to quantify the percentile of the U.S. population of children that corresponds to the mean of this sensitive subpopulation. Nor is EPA confident in its ability to develop quantified estimates of air-related IQ loss for higher percentiles than the mean of this subpopulation. EPA expects that the mean of this subpopulation represents a high, but not quantifiable, percentile of the U.S. population of children. As a result, EPA expects that a standard based on consideration of this framework would provide the same or greater protection from estimated air-related IQ loss for a high, albeit unquantifiable, percentage of the entire population of U.S. children.

In reaching a judgment as to the appropriate degree of protection, the Administrator considered advice and recommendations from CASAC and public comments and recognized the uncertainties in the health effects evidence and related information as well as the role of, and context for, a selected air-related IQ loss in the application of the framework, as described above. Based on these considerations, the Administrator identified an air-related IQ loss of 2 points for use with the framework, as a tool for considering the evidence with regard to the level for the standard (73 FR 67005, November 12, 2008). In so doing, the Administrator was not determining that such an IQ decrement value was appropriate in other contexts (73 FR 67005, November 12, 2008). Given the various uncertainties associated with the framework and the scientific evidence base, and the focus of the framework on the sensitive subpopulation of children that are more highly exposed to air-related Pb, a standard level selected in this way, in combination with the selected averaging time and form, was expected to significantly reduce and limit for a high percentage of U.S. children the risk of experiencing an air-related IQ loss of that magnitude (73 FR 67005, November 12, 2008). At the standard level of 0.15 μg/m^3, with the combination of the generally central estimate of air-to-blood ratio of 1:7 and the median of the four C–R functions (−1.75 IQ point decrement per μg/dL blood Pb), the framework estimates of air-related IQ loss were below 2 IQ points (73 FR 67005, November 12, 2008, Table 4).

In reaching the decision in 2008 on a level for the revised standard, the Administrator also considered the results of the quantitative risk assessment to provide a useful perspective on risk from air-related Pb. In light of important uncertainties and limitations for purposes of evaluating potential standard levels, however, the Administrator placed less weight on the risk estimates than on the evidence-based assessment. Nevertheless, in recognition of the general comparability of quantitative risk estimates for the case studies considered most conceptually similar to the scenario represented by the evidence-based framework, he judged the quantitative risk estimates to be ''roughly consistent with and generally supportive'' of the evidence-based framework estimates (73 FR 67006, November 12, 2008).

Based on consideration of the entire body of evidence and information available in the review, as well as the recommendations of CASAC and public comments, the Administrator decided that a level for the primary Pb standard of 0.15 μg/m^3, in combination with the specified choice of indicator, averaging time and form, was requisite to protect public health, including the health of sensitive groups, with an adequate margin of safety (73 FR 67006, November 12, 2008). In reaching decisions on level as well as the other elements of the revised standard, the Administrator took note of the complexity associated with consideration of health effects caused by different ambient air concentrations of Pb and with uncertainties with regard to the relationships between air concentrations, exposures, and health effects. For example, selection of a maximum, not to be exceeded, form in conjunction with a rolling 3-month averaging time over a 3-year span was expected to have the effect that the at-risk population of children would be exposed below the standard most of the time (73 FR 67005, November 12, 2008). The Administrator additionally considered the provision of an adequate margin of safety in making decisions on each of the elements of the standard, including, for example ''selection of TSP as the indicator and the rejection of the use of PM_{10} scaling factors; selection of a maximum, not to be exceeded form, in conjunction with a 3-month averaging time that employs a rolling average, with the requirement that each month in the 3-month period be weighted equally (rather than being averaged by individual data) and that a 3-year span be used for comparison to the standard; and the use of a range of inputs for the evidence-based framework, that includes a focus on higher air-to-blood ratios than the lowest ratio considered to be supportable, and steeper rather than shallower C–R functions, and the consideration of these inputs in selection of 0.15 μg/m^3 as the level of the standard'' (73 FR 67007, November 12, 2008).

The Administrator additionally noted that a standard with this level would reduce the risk of a variety of health effects associated with exposure to Pb, including effects indicated in the epidemiological studies at lower blood Pb levels, particularly including

neurological effects in children, and the potential for cardiovascular and renal effects in adults (73 FR 67006, November 12, 2008). The Administrator additionally considered higher and lower levels for the standard, concluding that a level of 0.15 μg/m^3 provided for a standard that was neither more or less stringent than necessary for this purpose, recognizing that the Act does not require that primary standards be set at a zero-risk level, but rather at a level that reduces risk sufficiently so as to protect public health with an adequate margin of safety (73 FR 67007, November 12, 2008). For example, the Administrator additionally considered potential public health protection provided by standard levels above 0.15 μg/m^3, which he concluded were insufficient to protect public health with an adequate margin of safety. The Administrator also noted that in light of all of the evidence, including the evidence-based framework, the degree of public health protection likely afforded by standard levels below 0.15 μg/m^3 would be greater than what is necessary to protect public safety with an adequate margin of safety.

The Administrator concluded, based on review of all of the evidence (including the evidence-based framework), that when taken as a whole the selected standard, including the indicator, averaging time, form, and level, would be ''sufficient but not more than necessary to protect public health, including the health of sensitive subpopulations, with an adequate margin of safety'' (73 FR 67007, November 12, 2008).

2. Approach for the Current Review

The approach in this review of the current primary standard takes into consideration the approach used in the last Pb NAAQS review, addressing key policy-relevant questions in light of currently available scientific and technical information. To evaluate whether it is appropriate to consider retaining the current primary Pb standard, or whether consideration of revision is appropriate, the EPA has adopted an approach in this review that builds upon the general approach used in the last review and reflects the broader body of evidence and information now available. As summarized above, the Administrator's decisions in the prior review were based on an integration of information on health effects associated with exposure to Pb with that on relationships between ambient air Pb and blood Pb; expert judgments on the adversity and public health significance of key health effects; and policy judgments as to when the standard is requisite to protect public health with an adequate margin of safety. These considerations were informed by air quality and related analyses, quantitative exposure and risk assessments, and qualitative assessment of impacts that could not be quantified.

Similarly in this review, as described in the PA, we draw on the current evidence and quantitative assessments of exposure pertaining to the public health risk of Pb in ambient air. In considering the scientific and technical information here as in the PA, we consider both the information available at the time of the last review and information newly available since the last review, including most particularly that which has been critically analyzed and characterized in the current ISA. We additionally consider the quantitative exposure/risk assessments from the last review that estimated Pb-related IQ decrements associated with different air quality conditions in simulated at-risk populations in multiple case studies (PA, section 3.4; 2007 REA). The evidence-based discussions presented below draw upon evidence from epidemiological studies and experimental animal studies evaluating health effects related to exposures to Pb, as discussed in the ISA. The exposure/risk-based discussions have drawn from the quantitative health risk analyses for Pb performed in the last Pb NAAQS review in light of the currently available evidence (PA, section 3.4; 2007 REA; REA Planning Document). Sections II.B through II.D below summarize the current health effects and exposure/risk information with a focus on the specific policy-relevant questions identified for these categories of information in the PA (PA, chapter 3).

B. Health Effects Information

1. Array of Effects

Lead has been demonstrated to exert a broad array of deleterious effects on multiple organ systems as described in the assessment of the evidence available in this review and consistent with conclusions of past CDs (ISA, section 1.6; 2006 CD, section 8.4.1). A sizeable number of studies on Pb health effects are newly available in this review and are critically assessed in the ISA as part of the full body of evidence. The newly available evidence reaffirms conclusions on the broad array of effects recognized for Pb in the last review (see ISA, section 1.10).[21] Consistent with those conclusions, in the context of pollutant exposures considered relevant to the Pb NAAQS review,[22] the ISA determines that causal relationships[23] exist for Pb with effects on the nervous system in children (cognitive function decrements and the group of externalizing behaviors comprising attention, impulsivity and hyperactivity), the hematological system (altered heme synthesis and decreased red blood cell survival and function), and the cardiovascular system (hypertension and coronary heart disease), and on reproduction and development (postnatal development and male reproductive function) (ISA, Table 1–2). Additionally, the ISA describes relationships between Pb and effects on the nervous system in adults, on immune system function and with cancer[24] as likely to be causal[25] (ISA, Table 1–2, sections 1.6.4 and 1.6.7).

In some categories of health effects, there is newly available evidence regarding some aspects of the effects described in the last review or that strengthens our conclusions regarding aspects of Pb toxicity on a particular

[21] Since the last Pb NAAQS review, the ISAs which have replaced CDs in documenting each review of the scientific evidence (or air quality criteria) employ a systematic framework for weighing the evidence and describing associated conclusions with regard to causality using established descriptors: ''causal'' relationship with relevant exposure, ''likely'' to be a causal relationship, evidence is ''suggestive'' of a causal relationship, ''inadequate'' evidence to infer a causal relationship, and ''not likely'' to be a causal relationship (ISA, Preamble).

[22] In drawing judgments regarding causality for the criteria air pollutants, the ISA places emphasis ''on evidence of effects at doses (*e.g.,* blood Pb concentration) or exposures (*e.g.,* air concentrations) that are relevant to, or somewhat above, those currently experienced by the population. The extent to which studies of higher concentrations are considered varies . . . but generally includes those with doses or exposures in the range of one to two orders of magnitude above current or ambient conditions. Studies that use higher doses or exposures may also be considered . . . [t]hus, a causality determination is based on weight of evidence evaluation . . ., focusing on the evidence from exposures or doses generally ranging from current levels to one or two orders of magnitude above current levels'' (ISA, pp. lx–lxi).

[23] In determining a causal relationship to exist for Pb with specific health effects, the EPA concludes that ''[e]vidence is sufficient to conclude that there is a causal relationship with relevant pollutant exposures (*i.e.,* doses or exposures generally within one to two orders of magnitude of current levels)'' (ISA, p. lxii).

[24] The EPA concludes that a causal relationship is likely to exist between Pb exposure and cancer, based primarily on consistent, strong evidence from experimental animal studies, but inconsistent epidemiological evidence (ISA, section 4.10.5). Lead has also been classified as a probable human carcinogen by the International Agency for Research on Cancer, based mainly on sufficient animal evidence, and as reasonably anticipated to be a human carcinogen by the U.S. National Toxicology Program (ISA, section 4.10).

[25] In determining that there is likely to be a causal relationship for Pb with specific health effects, the EPA has concluded that ''[e]vidence is sufficient to conclude that a causal relationship is likely to exist with relevant pollutant exposures, but important uncertainties remain'' (ISA, p. lxii).

physiological system. Among the nervous system effects of Pb, the newly available evidence is consistent with conclusions in the previous review which recognized that ''[t]he neurotoxic effects of Pb exposure are among those most studied and most extensively documented among human population groups'' (2006 CD, p. 8–25) and took note of the diversity of studies in which such effects of Pb exposure early in development (from fetal to postnatal childhood periods) have been observed (2006 CD, p. E–9). Nervous system effects that receive prominence in the current review, as in previous reviews, include those affecting cognitive function and behavior in children (ISA, section 4.3), with conclusions that are consistent with findings of the last review.

Across the broad array of Pb effects for systems and processes other than the nervous system, the evidence base has been augmented with additional epidemiological investigations in a number of areas, including developmental outcomes, such as puberty onset, and adult outcomes related to cardiovascular function, for which several large cohorts have been analyzed (ISA, Table 1–8 and sections 4.4 and 4.8). Conclusions on these other systems and processes are generally consistent with conclusions reached in the last review, while also extending our conclusions on some aspects of these effects (ISA, section 4.4 and Table 1–8).

Based on the extensive assessment of the full body of evidence available in this review, the major conclusions drawn by the ISA regarding health effects of Pb in children include the following (ISA, p. lxxxvii).

Multiple epidemiologic studies conducted in diverse populations of children consistently demonstrate the harmful effects of Pb exposure on cognitive function (as measured by IQ decrements, decreased academic performance and poorer performance on tests of executive function). . . . Evidence suggests that some Pb-related cognitive effects may be irreversible and that the neurodevelopmental effects of Pb exposure may persist into adulthood (Section 1.9.4). Epidemiologic studies also demonstrate that Pb exposure is associated with decreased attention, and increased impulsivity and hyperactivity in children (externalizing behaviors). This is supported by findings in animal studies demonstrating both analogous effects and biological plausibility at relevant exposure levels. Pb exposure can also exert harmful effects on blood cells and blood producing organs, and is likely to cause an increased risk of symptoms of depression and anxiety and withdrawn behavior (internalizing behaviors),decreases in auditory and motor function, asthma and allergy, as well as conduct disorders in children and young adults. There is some uncertainty about the Pb exposures contributing to the effects and blood Pb levels observed in epidemiologic studies; however, these uncertainties are greater in studies of older children and adults than in studies of young children (Section 1.9.5).

Based on the extensive assessment of the full body of evidence available in this review, the major conclusions drawn by the ISA regarding health effects of Pb in adults include the following (ISA, p. lxxxviii).

A large body of evidence from both epidemiologic studies of adults and experimental studies in animals demonstrates the effect of long-term Pb exposure on increased blood pressure (BP) and hypertension (Section 1.6.2). In addition to its effect on BP, Pb exposure can also lead to coronary heart disease and death from cardiovascular causes and is associated with cognitive function decrements, symptoms of depression and anxiety, and immune effects in adult humans. The extent to which the effects of Pb on the cardiovascular system are reversible is not well-characterized. Additionally, the frequency, timing, level, and duration of Pb exposure causing the effects observed in adults has not been pinpointed, and higher past exposures may contribute to the development of health effects measured later in life.

As in prior reviews of the Pb NAAQS, this review is focused on those effects most pertinent to ambient air Pb exposures. Given the reductions in ambient air Pb concentrations over the past decades, these effects are generally those associated with the lowest levels of Pb exposure that have been evaluated. Additionally, we recognize the limitations on our ability to draw conclusions regarding the exposure conditions contributing to the findings from epidemiological analyses of blood Pb levels in populations of older children and adults, particularly in light of their history of higher Pb exposures. Evidence available in future reviews may better inform this issue. In the last review, while recognizing the range of health effects in variously aged populations related to Pb exposure, we focused on the health effects for which the evidence was strongest with regard to relationships with the lowest exposure levels, neurocognitive effects in young children.

As is the case for studies of nervous system effects in children (discussed in more detail in section II.B.3 below), newly available studies of other effects in child and adult cohorts include cohorts with similar or somewhat lower mean blood Pb levels than in previously available studies. Categories of effects for which a causal relationship has been concluded in the ISA and for which there are a few newly available epidemiological studies indicating blood Pb associations with effects in study groups with somewhat lower blood Pb levels than previously available for these effects include effects on development (delayed puberty onset) and reproduction (male reproductive function) and on the cardiovascular system (hypertension) (ISA, sections 4.4 and 4.8; 2006 CD, sections 6.5 and 6.6). With regard to the former category, study groups in the newly available studies include groups composed of older children ranging up to age 18 years, for which there is increased uncertainty regarding historical exposures and their role in the observed effects.[26] An additional factor that handicaps our consideration of exposure levels associated with these findings is the appreciable uncertainty associated with our understanding of Pb biokinetics during this lifestage (ISA, sections 3.2, 3.3, and 4.8.6). The evidence newly available for Pb relationships with cardiovascular effects in adults include some studies with somewhat lower blood Pb levels than in the last review. The long exposure histories of these cohorts, as well as the generally higher Pb exposures of the past, complicate conclusions regarding exposure levels that may be eliciting observed effects (ISA, sections 4.4.2.4 and 4.4.7).[27] Accordingly, as discussed further below, we focus in this review, as in the last, on neurocognitive effects in young children.

2. Critical Periods of Exposure

As in the last review, we base our current understanding of health effects associated with different Pb exposure circumstances at various stages of life or in different populations on the full body of available evidence and primarily on epidemiological studies of health effects associated with population Pb biomarker levels (discussed further in section II.B.3 below). The epidemiological evidence is overwhelmingly composed of studies that rely on blood Pb for the exposure metric, with the remainder largely including a focus on bone Pb. Because these metrics reflect Pb in the body (*e.g.,* as compared to Pb exposure concentrations) and, in the case of blood Pb, reflect Pb available for distribution to target sites, they strengthen the

[26] Several of these studies involve NHANES III cohorts for which early childhood exposures were generally much higher than those common in the U.S. today (ISA, section 4.8.5).

[27] Studies from the late 1960s and 1970s suggest that adult blood Pb levels during that period ranged from roughly 13 to 16 μg/dL and from 15 to 30 μg/dL in children aged 6 and younger (ISA, section 4.4.1).

evidence base for purposes of drawing causal conclusions with regard to Pb generally. The complexity of Pb exposure pathways and internal dosimetry, however, tends to limit the extent to which these types of studies inform our more specific understanding of the Pb exposure circumstances (*e.g.,* timing within lifetime, duration, frequency and magnitude) eliciting the various effects.

As at the time of the last review (and discussed more fully in section II.B.3 below), assessment of the full evidence base, including evidence newly available in this review, demonstrates that Pb exposure prenatally and also in early childhood can contribute to neurocognitive impacts in childhood, with evidence also indicating the potential for effects persisting into adulthood (ISA, sections 1.9.4, 1.9.5, and 1.10). In addition to the observed associations of prenatal and childhood blood Pb with effects at various ages in childhood, there is also evidence of Pb-related cognitive function effects in non-occupationally exposed adults (ISA, section 4.3.11). This includes evidence of associations of such effects in adulthood with childhood blood Pb levels and in other cohorts, with concurrent (adult) blood Pb levels (ISA, sections 4.3.2.1, 4.3.2.7 and 4.3.11). As the studies finding associations of adult effects with childhood blood Pb levels did not examine adult blood Pb levels, the relative influence of adult Pb exposure cannot be ascertained, and a corresponding lack of early life exposure or biomarker measurements for the latter studies limits our ability to draw conclusions regarding specific Pb exposure circumstances eliciting the observed effects (4.3.11). Findings of stronger associations for adult neurocognitive effects with bone Pb, however, indicate the role of historical or cumulative exposures for those effects (ISA, section 4.3).

A critical aspect of much of the epidemiological evidence, particularly studies focused on adults (and older children) in the U.S. today, is the backdrop of generally declining environmental Pb exposure (from higher exposures during their younger years) that is common across many study populations (ISA, p. 4–2).[28] An additional factor complicating the interpretation of health effect associations with blood Pb measurements in older children and younger adults is the common behaviors of younger children (*e.g.,* hand-to-mouth contact) that generally contribute to relatively greater exposures earlier in life (ISA, sections 3.1.1, 4.2.1). Such exposure histories for adults and older children complicate our ability to draw conclusions regarding critical time periods and lifestages for Pb exposures eliciting the effects for which associations with Pb biomarkers have been observed in these populations (*e.g.,* ISA, section 1.9.6).[29] Thus, our confidence is greatest in the role of early childhood exposure in contributing to Pb-related neurocognitive effects that have been associated with blood Pb levels in young children. This is due, in part, to the relatively short exposure histories of young children (ISA, sections 1.9.4, 1.9.6 and 4.3.11).

Epidemiological analyses evaluating risk of neurocognitive impacts (*e.g.,* reduced IQ) associated with different blood Pb metrics in cohorts with differing exposure patterns (including those for which blood Pb levels at different ages were not highly correlated) also indicate associations with blood Pb measurements concurrent with full scale IQ (FSIQ) tests at ages of approximately 6–7 years. The analyses did not, however, conclusively demonstrate stronger findings for early (*e.g.,* age 2 years) or concurrent blood Pb (ISA, section 4.3.11).[30] The experimental animal evidence additionally indicates early life susceptibility (ISA, section 4.3.15 and p. 5–21). Thus, while uncertainties remain with regard to the role of Pb exposures during a particular age of life in eliciting nervous system effects, such as cognitive function decrements, the full evidence base continues to indicate prenatal and early childhood lifestages as periods of increased Pb-related risk (ISA, sections 4.3.11 and 4.3.15). We recognize increasing uncertainty, however, in our understanding of the relative impact on neurocognitive function of additional Pb exposure of children by school age or later that is associated with limitations of the currently available evidence, including epidemiological cohorts with generally similar temporal patterns of exposure.

As in the last review, there is also substantial evidence of other neurobehavioral effects in children, including effects on externalizing behaviors (reduced attention span, increased impulsivity, hyperactivity, and conduct disorders) and on internalizing behaviors. The evidence for many of these endpoints, as with neurocognitive effects, also includes associations of effects at various ages in childhood and for some effects, into adulthood, with blood Pb levels reflective of several different lifestages (*e.g.,* prenatal and several different ages in childhood) (ISA, sections 4.3.3 and 4.3.4). There is similar or relatively less extensive evidence to inform our understanding of such effects associated with specific time periods of exposure at specific lifestages than is the case for effects on cognitive function.

Across the range of Pb effects on physiological systems and processes other than the nervous system, the evidence base for blood pressure and hypertension is somewhat more informative with regard to the circumstances of Pb exposure eliciting the observed effects than are the evidence bases for many other effects. In the case of Pb-induced increases in blood pressure, the evidence indicates an importance of long-term exposure (ISA, sections 1.6.2 and 4.4.7.1). The greater uncertainties regarding the time, duration and magnitude of exposure contributing to these observed health effects complicate identification of sensitive lifestages and associated exposure patterns that might be compared with our understanding of the sensitivity of young children to neurocognitive impacts of Pb. Thus, while augmenting the evidence base on these additional endpoints, the newly available evidence does not lead us to identify a health endpoint expected to be more sensitive to Pb exposure than neurocognitive endpoints in children, leading us to continue to conclude that the appropriate primary focus for our review is on neurocognitive endpoints in children.

[28] The declines in Pb exposure concentrations occurring from the 1970s through the early 1990s (and experienced by middle aged and older adults of today), as indicated by NHANES blood Pb information, were particularly dramatic (ISA, section 3.4.1).

[29] The evidence from experimental animal studies can be informative with regard to key aspects of exposure circumstances in eliciting specific effects, thus informing our interpretation of epidemiological evidence. For example, the animal evidence base with regard to Pb effects on blood pressure demonstrates the etiologically-relevant role of long-term exposure (ISA, section 4.4.1). This finding then informs consideration of epidemiological studies of adult populations for whom historical exposures were likely more substantial than concurrent ones, suggesting that the observed effects may be related to the past exposure (ISA, section 4.4.1). For other health effects, the animal evidence base may or may not be informative in this manner.

[30] In the collective body of evidence of nervous system effects in children, it is difficult to distinguish exposure in later lifestages (*e.g.,* school age) and its associated risk from risks resulting from exposure in prenatal and early childhood (ISA, section 4.3.11). While early childhood is recognized as a time of increased susceptibility, a difficulty in identifying a discrete period of susceptibility from epidemiological studies has been that the period of peak exposure, reflected in peak blood Pb levels, is around 18–27 months when hand-to-mouth activity is at its maximum (ISA, section 3.4.1 and 5.2.1.1; 2006 CD, p. 6–60). The task is additionally complicated by the role of maternal exposure history in contributing Pb to the developing fetus (ISA, section 3.2.2.4.).

In summary, as in the last review, we continue to recognize a number of uncertainties regarding the circumstances of Pb exposure, including timing or lifestages, eliciting specific health effects. Consideration of the evidence newly available in this review has not appreciably changed our understanding on this topic. The relationship of long-term exposure to Pb with hypertension and increased blood pressure in adults is substantiated despite some uncertainty regarding the exposures circumstances (*e.g.,* magnitude and timing) contributing to blood Pb levels measured in epidemiological studies. Across the full evidence base, the effects for which our understanding of relevant exposure circumstances is greatest are neurocognitive effects in young children. Moreover, available evidence does not suggest a more sensitive endpoint. Thus, we continue to recognize and give particular attention to the role of Pb exposures relatively early in childhood in contributing to neurocognitive effects, some of which may persist into adulthood.

3. Nervous System Effects in Children

In considering the question of levels of Pb exposure at which health effects occur, we recognize, as discussed in sections II.B.1 and II.B.2 above, that the epidemiological evidence base for our consideration in this review, as in the past, includes substantial focus on internal biomarkers of exposure, such as blood Pb, with relatively less information specific to exposure levels, including those derived from air-related pathways. Given that blood and bone Pb are integrated markers of aggregate exposure across all sources and exposure pathways, our interpretation of studies relying on them is informed by what is known regarding the historical context and exposure circumstances of the study populations. For example, a critical aspect of much of the epidemiological evidence is the backdrop of generally declining Pb exposure over the past several decades (*e.g.,* ISA, sections 2.5 and 3.4.1; 2006 CD, section 3.4). Thus, as a generality, recent epidemiological studies of populations with similar characteristics as those studied in the past tend to involve lower overall Pb exposures and accordingly lower blood Pb levels. This has been of particular note in the evidence of blood Pb associations with nervous system effects, particularly impacts on cognitive function in children, for which we have seen associations with progressively lower childhood blood Pb levels across past reviews (ISA, section 4.3.12; 1986 CD; USEPA, 1990a; 2006 CD; 73 FR 66976, November 12, 2008).

The evidence currently available with regard to the magnitude of blood Pb levels associated with neurocognitive effects in children is generally consistent with that available in the review completed in 2008. Nervous system effects in children, specifically effects on cognitive function, continue to be the effects that are best substantiated as occurring at the lowest blood Pb concentrations (ISA, pp. lxxxvii–lxxxviii). Associations of blood Pb with effects on cognitive function measures in children have been reported in many studies across a range of childhood blood Pb levels, including study group (mean/median) levels ranging down to 2 μg/dL (*e.g.,* ISA, p. lxxxvii and section 4.3.2).[31]

Among the analyses of lowest study group blood Pb levels at the youngest ages are analyses available in the last review of Pb associations with neurocognitive function decrement in study groups with mean levels on the order of 3–4 μg/dL in children aged 24 months or ranging from 5 to 7 years (73 FR 66978–66979, November 12, 2008; ISA, sections 4.3.2.1 and 4.3.2.2; Bellinger and Needleman, 2003; Canfield et al., 2003; Lanphear et al., 2005; Tellez-Rojo et al., 2006; Bellinger, 2008; Canfield, 2008; Tellez-Rojo, 2008; Kirrane and Patel, 2014).[32] Newly available in this review are two studies reporting association of blood Pb levels prior to 3 years of age with academic performance on standardized tests in primary school; mean blood Pb levels in these studies were 4.2 and 4.8 μg/dL (ISA, section 4.3.2.5; Chandramouli et al., 2009; Miranda et al., 2009). One of these two studies, which represented integer blood Pb levels as categorical variables, indicated a small effect on end-of-grade reading score of blood Pb levels as low as 2 μg/dL, after adjustment for age of measurement, race, sex, enrollment in free or reduced lunch program, parental education, and school type (Miranda et al., 2009).

In a newly available study of blood Pb levels at primary school age, a significant association of blood Pb in children aged 8–11 years and concurrently measured FSIQ was reported for a cross-sectional cohort in Korea with a mean blood Pb level of 1.7 μg/dL and range of 0.43–4.91 μg/dL (Kim et al., 2009).[33] In considering the blood Pb levels in this study, we note that blood Pb levels in children aged 8–11 are generally lower than those in pre-school children, for reasons related to behavioral and other factors (ISA, sections 3.3.5, 3.4.1 and 5.2.1.1). It is likely that the blood Pb levels of this study group at earlier ages, *e.g.,* prior to school entry, were higher and the available information does not provide a basis to judge whether the blood Pb levels in this study represent lower exposure levels than those experienced by the younger study groups. In still older children, a large cross-sectional investigation of blood Pb association with effects on memory and learning that was available in the last review was focused on children aged 6–16 years, born during 1972–1988, with a mean blood Pb of 1.9 μg/dL (Lanphear et al., 2000). A study newly available in this review, focused on a subset of the earlier study cohort (ages 12–16, born during 1975–1982), also reports a significant negative association of blood Pb with learning and memory test results with mean blood Pb levels of approximately 2 μg/dL (ISA, section 4.3.2.3; Lanphear et al., 2000; Krieg et al., 2010). In considering these study findings with regard to the question of exposure levels eliciting effects, we recognize, however, that blood Pb levels are, in general, lower among teenagers than young children and also that, for these subjects specifically, the magnitude of blood Pb levels during the earlier childhood (*e.g.,* pre-school ages) was much higher. For example, the mean blood Pb levels for the 1–5 year old age group in the NHANES 1976–80 sample was 15 μg/dL, declining to 3.6 μg/dL in the NHANES 1988–1991 sample (Pirkle et al., 1994; ISA, section 3.4.1). In summary, the available information is for population groups of ages for which the NHANES samples indicate exposure levels were higher earlier in childhood. Thus, in light of the NHANES information, although the

[31] The value of 2 μg/dL refers to the regression analysis of blood Pb and end-of-grade test scores, in which blood Pb was represented by categories for integer values of blood Pb from 1 μg/dL to 9 and >10 μg/dL from large statewide database. A significant effect estimate was reported for test scores with all blood Pb categories in comparison to the reference category (1 μg/dL), which included results at and below the limit of detection. Mean levels are not provided for any of the categories (Miranda et al., 2009).

[32] The tests for cognitive function in these studies include age-appropriate Wechsler intelligence tests (Lanphear et al., 2005; Bellinger and Needleman, 2003), the Stanford-Binet intelligence test (Canfield et al., 2003), and the Bayley Scales of Infant Development (Tellez-Rojo et al., 2006). The Wechsler and Stanford-Binet tests are widely used to assess neurocognitive function in children and adults. These tests, however, are not appropriate for children under age 3. For such children, studies generally use the age-appropriate Bayley Scales of Infant Development as a measure of cognitive development.

[33] Limitations of this study included a lack of consideration of potential confounding by parental caregiving quality or IQ (ISA, Table 4–3).

blood Pb levels in the studies of cognitive effects in older child population groups are lower (at the time of the study) than the younger child study levels, the studies of older children do not provide a basis for concluding a role for lower Pb exposure levels than those experienced by the younger study groups.

With regard to other nervous system effects in children, the evidence base at lower blood Pb levels is somewhat extended since the last review with regard to the evidence on Pb and effects on externalizing behaviors, such as attention, impulsivity, hyperactivity and conduct disorders (ISA, section 4.3.3 and Table 4–17). Several newly available studies investigating the role of blood Pb levels in older children (primary school age and older) have reported significant associations for these effects with concurrent blood Pb levels, with mean levels generally on the order of 5 μg/dL or higher (ISA, section 4.3.3). One exception is the newly available cross-sectional, categorical analysis of the NHANES 2001–2004 sample of children aged 8–15 years, which found higher prevalence of conduct disorder in the subgroup with concurrent blood Pb levels of 0.8–1.0 μg/dL as compared to the <0.8 μg/dL group (ISA, section 4.3.4 and Table 4–12). As noted above, we recognize that many of these children, born between 1986 and 1996, are likely to have had much higher Pb exposures (and associated blood Pb levels) in their earlier years than those commonly experienced by young children today, thus making this study relatively uninformative with regard to evidence of effects associated with lower exposure levels than provided by evidence previously available.

In summary, our conclusions regarding exposure levels at which Pb health effects occur, particularly with regard to such levels that might be common in the U.S. today, are complicated now, as in the last review, by several factors. These factors include the scarcity of information in epidemiological studies on cohort exposure histories, as well as by the backdrop of higher past exposure levels which frame the history of most, if not all, older study cohorts. Recognizing the complexity, as well as the potential role of higher exposure levels in the past, we continue to focus our consideration of this question on the evidence of effects in young children for which our understanding of exposure history is less uncertain.[34] Within this evidence base, we recognize the lowest study group blood Pb levels to be associated with effects on cognitive function measures, indicating that to be the most sensitive endpoint. As described above, the evidence available in this review is generally consistent with that available in the last review with regard to blood Pb levels at which such effects had been reported (ISA, section 4.3.2; 2006 CD, section 8.4.2.1; 73 FR 66976–66979, November 12, 2008). As blood Pb levels are a reflection of exposure history, particularly in early childhood (ISA, section 3.3.2), we conclude, by extension, that the currently available evidence does not indicate Pb effects at exposure levels appreciably lower than recognized in the last review.

We additionally note that, as in the last review, a threshold blood Pb level with which nervous system effects, and specifically cognitive effects, occur in young children cannot be discerned from the currently available studies (ISA, sections 1.9.3 and 4.3.12). Epidemiological analyses have reported blood Pb associations with cognitive effects (FSIQ or BSID MDI[35]) for young child population subgroups (age 5 years or younger) with individual blood Pb measurements as low as approximately 1 μg/dL and mean concentrations as low as 2.9 to 3.8 μg/dL (ISA, section 4.3.12; Bellinger and Needleman, 2003; Bellinger, 2008; Canfield et al., 2003; Canfield, 2008; Tellez-Rojo et al., 2006; Tellez-Rojo, 2008). As concluded in the ISA, however, ''the current evidence does not preclude the possibility of a threshold for neurodevelopmental effects in children existing with lower blood levels than those currently examined'' (ISA, section 4.3.13).

Important uncertainties associated with the evidence of effects at low exposure levels are similar to those recognized in the last review, including the shape of the concentration-response relationship for effects on neurocognitive function at low blood Pb levels in today's young children. Also of note is our interpretation of associations between blood Pb levels and effects in epidemiological studies, with which we recognize uncertainty with regard to the specific exposure circumstances (timing, duration, magnitude and frequency) that have elicited the observed effects, as well as uncertainties in relating ambient air concentrations (and associated air-related exposures) to blood Pb levels in early childhood, as discussed in section II.B.2 above. We additionally recognize uncertainties associated with conclusions drawn with regard to the nature of the epidemiological associations with blood Pb (*e.g.,* ISA, section 4.3.13), but note that, based on consideration of the full body of evidence for neurocognitive effects, the EPA has determined a causal relationship to exist between relevant blood Pb levels and neurocognitive impacts in children (ISA, section 4.3.15.1).

Based primarily on studies of FSIQ, the assessment of the currently available studies, as was the case in the last review, continues to recognize a nonlinear relationship between blood Pb and effects on cognitive function, with a greater incremental effect (greater slope) at lower relative to higher blood Pb levels within the range thus far studied, extending from well above 10 μg/dL to below 5 μg/dL (ISA, section 4.3.12). This was supported by the evidence available in the last review, including the analysis of the large pooled international dataset comprised of blood Pb measurements and IQ test results from seven prospective cohorts (Lanphear et al., 2005; Rothenberg and Rothenberg, 2005; ISA, section 4.3.12). The blood Pb measurements in this pooled dataset that were concurrent with the IQ tests ranged from 2.5 μg/dL to 33.2 μg/dL. The study by Lanphear et al. (2005) additionally presented analyses that stratified the dataset based on peak blood Pb levels (*e.g.,* with cutpoints of 7.5 μg/dL and 10 μg/dL peak blood Pb) and found that the coefficients from linear models of the association for IQ with concurrent blood Pb were higher in the lower peak blood Pb level subsets than the higher groups (ISA, section 4.3.12; Lanphear et al., 2005).

We note that since the completion of the ISA, two errors have been identified with the pooled dataset analyzed by Lanphear et al. (2005) (Kirrane and Patel, 2014). A recent publication and the EPA have separately recalculated the statistics and mathematical model parameters of Lanphear et al. (2005) using the corrected pooled dataset (see Kirrane and Patel, 2014). While the magnitude of the loglinear and linear regression coefficients are modified slightly based on the corrections, the conclusions drawn from these coefficients, including the finding of a steeper slope at lower (as compared to

[34] In focusing on effects associated with blood Pb levels in early childhood, however, we additionally recognize the evidence across categories of effects that relate to blood Pb levels in older child study groups (for which early childhood exposure may have had an influence) which provides additional support to an emphasis on nervous system effects (ISA, sections 4.3, 4.4, 4.5, 4.6, 4.7, 4.8).

[35] The Bayley Scales of Infant Development, Mental Development Index is a well-standardized and widely used assessment measure of infant cognitive development. Scores earlier than 24 months are not necessarily strongly correlated with later FSIQ scores in children with normal development (ISA, section 4.3.15.1).

higher) blood Pb concentrations, are not affected (Kirrane and Patel, 2014).

In other publications, stratified analyses of several individual cohorts also observed higher coefficients for blood Pb relationships with measures of neurocognitive function in lower as compared to higher blood Pb subgroups (ISA, section 4.3.12; Canfield et al., 2003; Bellinger and Needleman, 2003; Kordas et al., 2006; Tellez-Rojo et al., 2006). Of these subgroup analyses, those involving the lowest mean blood Pb levels and closest to the current mean for U.S. preschool children are listed in Table 1 (drawn from Table 3 of the 2008 final rulemaking notice [73 FR 67003, November 12, 2008], and Kirrane and Patel, 2014).[36] These analyses were important inputs for the evidence-based, air-related IQ loss framework which informed decisions on a revised standard in the last review (73 FR 67005, November 12, 2008), discussed in section II.A.1 above. As the framework focused on the median of the four slopes in Table 1, the change to the one from Lanphear et al. (2005) based on the recent recalculation described above has no impact on conclusions drawn from the framework.

TABLE 1—SUMMARY OF QUANTITATIVE RELATIONSHIPS OF IQ AND BLOOD PB FOR ANALYSES WITH BLOOD PB LEVELS CLOSEST TO THOSE OF YOUNG CHILDREN IN THE U.S. TODAY

Blood Pb levels (μg/dL)		Study/analysis	Average linear slope [A] (IQ [B] points per μg/dL)
Geometric mean	Range (min–max)		
2.9	0.8–4.9	Tellez-Rojo et al. (2006)[B], subgroup w. concurrent blood Pb <5 μg/dL.	−1.71
3.3	0.9–7.4	Lanphear et al. (2005)[C], subgroup w. peak blood Pb <7.5 μg/dL.	−2.53
3.32	0.5–8.4	Canfield et al. (2003) [C D], subgroup w. peak blood Pb <10 μg/dL.	−1.79
3.8	1–9.3	Bellinger and Needleman (2003) [C E], subgroup w. peak blood Pb <10 μg/dL.	−1.56
Median value			−1.75

A—Average linear slope estimates here are generally for relationship with IQ assessed concurrently with blood Pb measurement. As exceptions, Bellinger & Needleman (2003) slope is relationship for 10 year old IQ with blood Pb levels at 24 months, and the data for Boston cohort included in Lanphear et al. (2005) slope are relationship for 10 year old IQ with blood Pb levels at 5 years.

B—The slope for Tellez-Rojo et al. (2006) is for BSID (MDI), a measure of cognitive development appropriate to study population age (24-mos). The blood Pb levels for this subgroup are from Tellez-Rojo (2008).

C—The Lanphear et al. (2005) pooled international study also includes blood Pb data from the Rochester and Boston cohorts, although for different ages (6 and 5 years, respectively) than the ages analyzed in Canfield et al. (2003) and Bellinger and Needleman (2003). Thus, the ages at the blood Pb measurements used in derivation of the linear slope for the Lanphear et al. (2005) subgroup shown here are 5 to 7 years. The blood Pb levels and coefficient presented here for Lanphear et al. (2005) study group reflect the recalculation using the corrected pooled dataset (Kirrane and Patel, 2014).

D—Blood Pb levels for this subgroup are from Canfield (2008).

E—Blood Pb levels for this subgroup are from Bellinger (2008).

Several studies newly available in the current review have, in all but one instance, also found a nonlinear blood Pb-cognitive function relationship in nonparametric regression analyses of the cohort blood Pb levels analyzed (ISA, section 4.3.12). These studies, however, used statistical approaches that did not produce quantitative results for each blood Pb group (ISA, section 4.3.12). Thus, newly available studies have not extended the range of observation for quantitative estimates of this relationship to lower blood Pb levels than those of the previous review. The ISA further notes that the potential for nonlinearity has not been examined in detail within a lower, narrower range of blood Pb levels than those of the full cohorts thus far studied in the currently available evidence base (ISA, section 4.3.12). Such an observation in the last review supported the consideration of linear slopes with regard to blood Pb levels at and below those represented in Table 1. In summary, the newly available evidence does not substantively alter our understanding of the C–R relationship (including quantitative aspects) for neurocognitive impact, such as IQ with blood Pb in young children.

4. At-Risk Populations

In this section, we use the term ''at-risk populations'' [37] to recognize populations that have a greater likelihood of experiencing Pb-related health effects, *i.e.,* groups with characteristics that contribute to an increased risk of Pb-related health effects. These populations are also sometimes referred to as sensitive groups (as in section I.A above). In identifying factors that increase risk of Pb-related health effects, the EPA has considered evidence regarding factors contributing to increased susceptibility, generally including physiological or intrinsic factors contributing to a greater response for the same exposure, and those contributing to increased exposure, including that resulting from behavior leading to increased contact with contaminated media (ISA, Chapter 5). Physiological risk factors include both conditions contributing to a group's increased risk of effects at a given blood Pb level, and those that contribute to blood Pb levels higher than those otherwise associated with a

[36] One of these four is from the analysis of the lowest blood Pb subset of the pooled international study by Lanphear et al. (2005). The nonlinear model developed from the full pooled dataset is the basis of the C–R functions used in the 2007 REA, in which risk was estimated over a large range of blood Pb levels (PA, section 3.4.3.3). Given the narrower focus of the evidence-based framework on IQ response at the end of studied blood Pb levels (closer to U.S. mean level), the C–R functions in Table 1 are from linear analyses (each from separate publications) for the study group subsets with blood Pb levels closest to mean for children in the U.S. today.

[37] In the context of ''at-risk populations,'' the term ''population'' refers to persons having one or more qualities or characteristics including, for example, a specific pre-existing illness or a specific age or lifestage, with lifestage referring to a distinguishable time frame in an individual's life characterized by unique and relatively stable behavioral and/or physiological characteristics that are associated with development and growth.

given Pb exposure (*e.g.,* ISA, sections 5.3 and 5.1, respectively).

The information newly available in this review has not substantially altered our previous understanding of at-risk populations for Pb in ambient air. As in the last review, the factor most prominently recognized to contribute to increased risk of Pb effects is childhood (ISA, section 1.9.6). As noted in section II.B.2 above, although the specific ages or lifestages of greatest susceptibility [38] or risk have not been established (*e.g.,* ISA, section 4.3.11), the at-risk status of young children to the neurodevelopmental effects of Pb is well recognized (*e.g.,* ISA, sections 1.9.6, 4.3, 5.2.1, 5.3.1, and 5.4). The evidence indicates that prenatal blood Pb levels are associated with nervous system effects, including mental development in very young children and can also be associated with cognitive decrements in older children (ISA, section 4.3). Additionally, the coincidence during early childhood of behaviors that increase exposure, such as hand-to-mouth contact by which children transfer Pb in settled particles to their mouths, and the development of the nervous system also contributes increased risk during this time (ISA, sections 3.7.1, 4.3.2.6, 5.2.1.1, 5.3.1.1 and 5.4). Collectively, however, the evidence indicates both the susceptibility of the developing fetus and early postnatal years, as well as the potential for continued susceptibility through childhood as the human central nervous system continues to mature and be vulnerable to neurotoxicants (ISA, sections 1.9.5 and 4.3.15; 2006 CD, section 6.2.12). As discussed in section II.B.2 above, while uncertainties remain with regard to the role of Pb exposures during a particular age of life in eliciting nervous system effects, such as cognitive function decrements, the full evidence base continues to indicate prenatal and early childhood lifestages as periods of increased Pb-related risk (ISA, sections 4.3.11 and 4.3.15).

Several physiological factors increase the risk of Pb-related health effects by contributing to increased blood Pb levels over those otherwise associated with a given Pb exposure (ISA, sections 3.2, 3.3 and 5.1). These include nutritional status, which plays a role in Pb absorption from the gastrointestinal tract (ISA, sections 3.2.1.2, 5.1, 5.3.10 and 5.4). For example, diets deficient in iron, calcium or zinc can contribute to increased Pb absorption and associated higher blood Pb levels (ISA, sections 3.2.1.2, and 5.1). Evidence is suggestive of some genetic characteristics as potential risk factors, such as presence of the δ-aminolevulinic acid dehydratase-2 (ALAD–2) allele which has been indicated to increase blood Pb levels or Pb-related risk of health effects in some studies (ISA, sections 3.3.2 and 5.1).

Risk factors based on increased exposure include spending time in proximity to sources of Pb to ambient air or other environmental media (*e.g.,* large active metals industries or locations of historical Pb contamination) (ISA, sections 1.9.6, 3.7.1, 5.2.5 and 5.4). Residential factors associated with other sources of Pb exposure (*e.g.,* leaded paint or plumbing with Pb pipes or solder) are another exposure-related risk factor (ISA, sections 3.7.1, 5.2.6 and 5.4). Additionally, some races or ethnicities have been associated with higher blood Pb levels, with differential exposure indicated in some cases as the cause (ISA, sections 5.2.3 and 5.4). Lower socioeconomic status (SES) has been associated with higher Pb exposure and higher blood Pb concentration, leading the ISA to conclude the evidence is suggestive for low SES as a risk factor (ISA, sections 5.3.16, 5.2.4 and 5.4). Although the differences in blood Pb levels between children of lower and higher income levels (as well as among some races or ethnicities) have lessened, blood Pb levels continue to be higher among lower-income children indicating higher exposure and/or greater influence of factors independent of exposure, such as nutritional factors (ISA, sections 1.9.6, 5.2.1.1 and 5.4).

In considering risk factors associated with increased Pb exposure or increased blood Pb levels, we note that the currently available evidence continues to support a nonlinear relationship between neurocognitive effects and blood Pb that indicates incrementally greater impacts at lower as compared to higher blood Pb levels (ISA, section 4.3.12), as described in section II.B.3 above. An important implication of this finding is that while children with higher blood Pb levels are at greater risk of Pb-related effects than children with lower blood Pb levels, on an incremental basis (*e.g.,* per μg/dL), the risk is greater for children at lower blood Pb levels. This was given particular attention in the last review of the Pb NAAQS, in which the standard was revised with consideration of the incremental impact of air-related Pb on young children in the U.S. and the recognition of greater impact for those children with lower absolute blood Pb levels (73 FR 67002, November 12, 2008). Such consideration included a focus on those C–R studies involving the lowest blood Pb levels, as described in section II.A.1 above.

In summary, the information newly available in this review has not appreciably altered our understanding of human populations that are particularly sensitive to Pb exposures. In the current review, as at the time of the last review of the Pb NAAQS, we recognize young children as an important at-risk population, with sensitivity extending to prenatal exposures and into childhood development. Additional risk factors for increased blood Pb levels include deficiencies in dietary minerals (iron, calcium and zinc), some racial or ethnic backgrounds,[39] and spending time in proximity to environmental sources of Pb or residing in older houses with Pb exposure related to paint or plumbing.[40] The currently available evidence continues to additionally suggest a potential for increased risk associated with several other factors, including older adulthood,[41] pre-existing disease

[38] As noted in the ISA, ''in most instances, 'susceptibility' refers to biological or intrinsic factors (*e.g.,* age and sex) while 'vulnerability' refers to nonbiological or extrinsic factors (*e.g.,* socioeconomic status [SES])'' and the terms ''at-risk'' and ''sensitive'' populations have in various instances been used to encompass these concepts more generally (ISA, p. 5–1). In providing detail regarding factors contributing to an ''at-risk'' status in this section, we have used the other terms in particular instances, with our usage consistent with these common definitions.

[39] The ISA concludes that studies of race/ethnicity provide adequate evidence that race/ethnicity is an at-risk factor based on the higher exposure observed among non-white populations and some modification observed in studies of associations between Pb levels and some health effects, such as hypertension (ISA, section 6.4).

[40] The evidence for SES continues to indicate increased blood Pb levels in lower income children, although its role with regard to an increased health risk for the same blood Pb level is unclear and its role generally with regard to Pb-related risk is somewhat complicated. SES often serves as a marker term for one or a combination of unspecified or unknown environmental or behavioral variables. Further, it is independently associated with an adverse impact on neurocognitive development, and a few studies have examined SES as a potential modifier of the association of childhood Pb exposure with cognitive function with inconsistent findings regarding low SES as a potential risk factor. The ISA concludes the evidence for SES as a Pb risk factor is suggestive, based on the greater exposures or blood Pb levels in some low SES groups (ISA, section 5.4).

[41] The ISA identifies older adulthood as a lifestage of potentially greater risk of Pb-related health effects based primarily on the evidence of increases in blood Pb levels during this lifestage (ISA, sections 5.2.1.2, 5.3.1.2, and 5.4), as well as observed associations of some cardiovascular and nervous system effects with bone and blood Pb in older populations, with biological plausibility for the role of Pb provided by experimental animal studies (ISA, sections 4.3.5, 4.3.7 and 4.4). Exposure histories of older adult study populations, which included younger years during the time of leaded gasoline usage and other sources of Pb exposures which were more prevalent in the past than today, are likely contributors to their blood Pb levels (ISA, pp. lx–lxi; Figure 2–1 and sections 2.5.2, 3.3.5 and 5.2.1.2).

(*e.g.,* hypertension), variants for certain genes and increased stress (ISA, section 5.3.4). As discussed above, we recognize the sensitivity of the prenatal period and several lifestages of childhood to an array of neurocognitive and behavioral effects, and we particularly recognize young children as an important at-risk population in light of current environmental exposure levels. Age or lifestage was used to distinguish potential groups on which to focus in the last review in recognition of its role in exposure and susceptibility, and young children were the focus of the REA in consideration of the health effects evidence regarding endpoints of greatest public health concern and in recognition of effects on the developing nervous system as a sentinel endpoint for public health impacts of Pb. This identification continues to be supported by the evidence available in the current review.

5. Potential Impacts on Public Health

There are several potential public health impacts associated with Pb exposure in the current U.S. population. In recognition of effects causally related to blood Pb levels somewhat near those most recently reported for today's population and for which the weight of the evidence is greatest, the potential public health impacts most prominently recognized in the ISA are population IQ impacts associated with childhood Pb exposure and prevalence of cardiovascular effects in adults (ISA, section 1.9.1). With regard to the latter category, as discussed above, the full body of evidence indicates a role of long-term cumulative exposure, with uncertainty regarding the specific exposure circumstances contributing to the effects in the epidemiological studies of adult populations, for whom historical Pb exposures were likely much higher than exposures that commonly occur today (ISA, section 4.4). There is less uncertainty regarding the exposure patterns contributing to the blood Pb levels reported in studies of younger populations (ISA, sections 1.9.4 and 1.10). Accordingly, the discussion of public health implications relevant to this review is focused predominantly on nervous system effects, including IQ decrements, in children.

The magnitude of a public health impact is dependent upon the type or severity of the effect, as well as the size of populations affected. Intelligence quotient is a well-established, widely recognized and rigorously standardized measure of neurocognitive function, as well as a global measure reflecting the integration of numerous processes (ISA, section 4.3.2; 2006 CD, sections 6.2.2 and 8.4.2). Examples of other measures of cognitive function negatively associated with Pb exposure include other measures of intelligence and cognitive development and measures of other cognitive abilities, such as learning, memory, and executive functions, as well as academic performance and achievement (ISA, section 4.3.2). Although some neurocognitive effects of Pb in children may be transient, some may persist into adulthood (ISA, section 1.9.5).[42] We also note that deficits in neurodevelopment early in life may have lifetime consequences as ''[n]eurodevelopmental deficits measured in childhood may set affected children on trajectories more prone toward lower educational attainment and financial well-being'' (ISA, section 4.3.14). Thus, population groups for which neurodevelopment is affected by Pb exposure in early childhood are at risk of related impacts on their success later in life. Further, in considering population risk, the ISA notes that ''[s]mall shifts in the population mean IQ can be highly significant from a public health perspective'' (ISA, p. xciii). For example, if Pb-related decrements are manifested uniformly across the range of IQ scores in a population, ''a small shift in the population mean IQ may be significant from a public health perspective because such a shift could yield a larger proportion of individuals functioning in the low range of the IQ distribution, which is associated with increased risk of educational, vocational, and social failure'' as well as a decrease in the proportion with high IQ scores (ISA, section 1.9.1).

As summarized above, young children are the at-risk population that may be most at risk of health effects associated with exposure to Pb and children at greatest risk from *air-related* Pb are those children with highest air-related Pb exposure which we consider to be those living in areas of higher ambient air Pb concentrations. To inform our understanding of the extent of this population potentially at risk from air-related Pb, the PA includes two analyses. The first analysis is based on consideration of the available air Pb monitoring information. As the air quality data set available for the first analysis may not be inclusive of all of the newly sited monitors (as discussed in section 2.2.1 of the PA) and there may be other areas with elevated Pb concentrations, a second analysis was performed in consideration of emissions estimates from the National Emissions Inventory (NEI), although with recognition of uncertainties associated with inferences drawn from such estimates with regard to ambient air Pb concentrations and exposures (PA, pp. 3–36 to 3–38).[43]

The first PA analysis indicates that approximately one hundredth of one percent of the full population of children aged 5 or under in the U.S. reside within 0.5 km of monitors exceeding or within 10 percent of the level of the current standard (PA, section 2.2.2.2, pp. 3–36 to 3–37, 4–25 and Table 3–4). In the second analysis, the size of young child populations residing in areas near large Pb sources was approximately four hundredths of one percent of the full U.S. population of children aged 5 years or younger (PA, pp. 3–37 to 3–38, 4–25). The PA recognized uncertainties and potential limitations associated with the use of the emissions estimates in the second analysis to make inferences regarding ambient air Pb exposures, uncertainties both with regard to the accuracy of such estimates and also with regard to the role of specific source characteristics and meteorology, not explicitly considered here, in influencing ambient air Pb concentrations and contributing to substantial variation in air Pb concentrations at source locations (*e.g.,* PA, Figure 2–11). Accordingly, while the second analysis is considered informative with regard to the potential prevalence of airborne Pb emissions and potential exposure of human populations, it is limited with regard to its ability to identify populations living in areas of elevated ambient air Pb concentrations. The PA interprets the two analyses together to indicate that well below one tenth of one percent of the full population of children aged 5 years or younger in the U.S. today live in areas with air Pb concentrations near or above the current standard, with the current monitoring data indicating the size of this population to be approximately one hundredth of a percent of the full population of children aged 5 or younger (PA, pp. 3–36 to 3–38, 4–25, 4–32).

[42] The ISA states that the ''persistence of effects appears to depend on the duration and window of exposure as well as other factors that may affect an individual's ability to recover from an insult,'' with some evidence of greater recovery in children reared in households with more optimal caregiving characteristics and low concurrent blood Pb levels (ISA, p. 1–77; Bellinger et al., 1990).

[43] Such uncertainties include those with regard to specific source characteristics and meteorology, not explicitly considered in the analysis. In light of such uncertainties, the PA interprets the emissions-based analysis to provide a bounding estimate below which the true value is expected to fall (PA, p. 3–37).

C. Blood Lead as a Biomarker of Exposure and Relationships With Air Lead

Blood Pb is well established as a biomarker of Pb exposure and of internal dose, with relationships between air Pb concentrations and blood Pb concentrations informing consideration of the NAAQS for Pb since its initial establishment in 1978. Lead associated with inhaled particles may, depending on particle size and Pb solubility, be absorbed into the systemic circulation or transported with particles to the gastrointestinal tract (ISA, section 3.2.1.1), where its absorption is influenced by a range of factors (ISA, section 3.2.1.2). Lead in the blood stream is quickly distributed throughout the body (*e.g.,* within days), available for exchange with the soft and skeletal tissues, the latter of which serves as the largest storage compartment (ISA, section 3.2.2.2). Given the association with exposure and the relative ease of collection, blood Pb levels are extensively used as an index or biomarker of exposure by national and international health agencies, as well as in epidemiological and toxicological studies of Pb health effects and dose-response relationships (ISA, sections 3.3.2, 3.4.1, 4.3, 4.4, 4.5, 4.6, 4.7, and 4.8). While bone Pb measurements are also used in epidemiological studies as an indicator of cumulative Pb exposure, blood Pb measurements remain the predominant, well-established and well-characterized exposure approach.

Since 1976, the CDC has been monitoring blood Pb levels nationally through the NHANES. This survey has documented the dramatic decline in mean blood Pb levels in all ages of the U.S. population that has occurred since the 1970s (PA, Figure 3–1), and that coincides with actions on leaded fuels, leaded paint, Pb in food packaging, and Pb-containing plumbing materials that have reduced Pb exposure in the U.S. (ISA, section 3.4.1; Pirkle et al., 1994; Schwemberger et al., 2005). This decline has continued over the more recent past. For example, the 2009–2010 geometric mean blood Pb level in U.S. children aged 1–5 years is 1.17 μg/dL, as compared to 1.51 μg/dL in 2007–2008 (ISA, section 3.4.1) and 1.8 μg/dL in 2003–2004, the most recent data available at the time of the last review (73 FR 67002, November 12, 2008). Somewhat less dramatic declines have been reported in the upper tails of the distribution and in different groups with higher blood Pb levels than the general child population (ISA, Figures 3–17 and 3–19).

The blood Pb concentration in childhood (particularly early childhood) can more quickly (than in adulthood) reflect changes in total body burden (associated with the shorter exposure history) and can also reflect changes in recent exposures (ISA, section 3.3.5). The relationship of children's blood Pb to recent exposure may reflect their labile bone pool, with their rapid bone turnover in response to rapid childhood growth rates (ISA, section 3.3.5). The relatively smaller skeletal compartment of Pb in children (particularly very young children) compared to adults is subject to more rapid turnover. The distribution of Pb in the body is dynamic throughout life, with Pb in the body being exchanged between blood and bone and between blood and soft tissues (ISA, sections 3.3.5 and 3.2.2; 2006 CD, section 4.3.2). The rates of these exchanges vary with age, exposure and various physiological variables. For example, resorption of bone, which results in the mobilization of Pb from bone into the blood, is a somewhat rapid and ongoing process during childhood and a more gradual process in later adulthood (ISA, sections 3.2.2.2, 3.3.5 and 3.7.2; PA, pp. 3–2 to 3–3).

Lead in ambient air contributes to Pb in blood by multiple exposure pathways by both inhalation and ingestion exposure routes (ISA, section 3.1.1). Multiple studies have demonstrated young children's blood Pb levels to reflect Pb exposures, including exposures to Pb in surface dust (*e.g.,* Lanphear and Roghmann, 1997; Lanphear et al., 1998). These and studies of child populations near sources of air Pb emissions, such as metal smelters, have further demonstrated the effect of airborne Pb on interior dust and on blood Pb (ISA, sections 3.4.1, 3.5.1 and 3.5.3; Hilts, 2003; Gulson et al., 2004).

As blood Pb is an integrated marker of aggregate Pb exposure across all pathways, the blood Pb C–R relationships described in epidemiological studies of Pb-exposed populations do not distinguish among different sources of Pb or pathways of Pb exposure (*e.g.,* inhalation, ingestion of indoor dust, ingestion of dust containing leaded paint). Thus, our interpretation of the health effects evidence for purposes of this review necessitates characterization of the relationships between Pb from those sources and pathways of interest in this review (*i.e.,* those related to Pb emitted into the air) and blood Pb.

The evidence for air-to-blood relationships derives from analyses of datasets for populations residing in areas with differing air Pb concentrations, including datasets for circumstances in which blood Pb levels have changed in response to changes in air Pb. The control for variables other than air Pb that can affect blood Pb varies across these analyses. At the conclusion of the last review in 2008, the EPA interpreted the evidence as providing support for use (in informing the Administrator's decision on standard level) of a range of air-to-blood ratios [44] ''inclusive at the upper end of estimates on the order of 1:10 and at the lower end on the order of 1:5'' (73 FR 67002, November 12, 2008). This conclusion reflected consideration of the air-to-blood ratios presented in the 1986 CD [45] and associated observations regarding factors contributing to variation in such ratios, ratios reported subsequently and ratios estimated based on modeling performed in the REA, as well as advice from CASAC (73 FR 66973–66975, 67001–67002, November 12, 2008). The information available in this review, which is assessed in the ISA and largely, although not completely, comprises studies that were available in the last review, does not alter the primary scientific conclusions drawn in the last review regarding the relationships between Pb in ambient air and Pb in children's blood. The ratios summarized in the ISA in this review span a range generally consistent with the range concluded in 2008 (ISA, section 3.5.1).

The evidence pertaining to the quantitative relationship between air Pb and children's blood Pb is now, as in the past, limited by the circumstances in which the data are collected. These estimates are generally developed from studies of populations in a variety of Pb exposure circumstances. Accordingly, there is significant variability in air-to-blood ratios among the different study populations exposed to Pb through different air-related exposure pathways and at different exposure levels. This variability in air-to-blood estimates can relate to the representation of air-related pathways and study populations, including, for example, relatively narrow age ranges for the population in order to reduce age-related variability in blood Pb, or including populations with narrowly specified dietary sources. It

[44] The quantitative relationship between ambient air Pb and blood Pb, often termed a slope or ratio, describes the increase in blood Pb (in μg/dL) estimated to be associated with each unit increase of air Pb (in $\mu g/m^3$). Ratios are presented in the form of 1:x, with the 1 representing air Pb (in $\mu g/m^3$) and x representing blood Pb (in μg/dL). Description of ratios as higher or lower refers to the values for x (*i.e.,* the change in blood Pb per unit of air Pb). Slopes are presented as simply the value of x.

[45] The 2006 CD did not include an assessment of then-current evidence on air-to-blood ratios.

can relate to the study population exposure and blood Pb levels (ISA, section 3.7.4). It can also relate to the precision of air and blood measurements and of the study circumstances, such as with regard to spatial and temporal aspects. Additionally, in situations where exposure to nonair sources covaries with air-related exposures that are not accounted for in deriving ratio estimates, uncertainties may relate to the potential for confounding by nonair exposure covariance (ISA, section 3.5). Most of the studies assessed in the ISA and PA have reported ratios for which the relationship is linear, while a subset are derived from nonlinear models (PA, Table 3–1; ISA, section 3.7.4).

As was noted in the last review, age is an important influence on the magnitude of air-to-blood ratio estimates derived. Ratios for children are generally higher than those for adults, and higher for young children than older children, perhaps due to behavioral differences between the age groups, as well as their shorter exposure history. Similarly, given the common pattern of higher blood Pb levels in pre-school-aged children than during the rest of childhood, related to behaviors that increase environmental exposures (*e.g.,* hand-to-mouth activity), ratios would be expected to be highest in earlier childhood. Additionally, estimates of air-to-blood ratios that include air-related ingestion pathways in addition to the inhalation pathway are ''necessarily higher,'' in terms of blood Pb response, than those estimates based on inhalation alone (1986 CD, p. 11–106). Thus, the extent to which studies account for the full set of air-related inhalation and ingestion exposure pathways affects the magnitude of the resultant air-to-blood estimates, such that including fewer pathways as ''air-related'' yields lower ratios. Estimates of air-to-blood ratios can also be influenced by population characteristics that may influence blood Pb; accordingly, some analyses include adjustments.

Given the recognition of young children as a key at-risk population in this review, as in the last (as discussed in section II.B.3 above), as well as the influence of age on blood Pb levels, we have considered the available studies in groups based on the extent of their inclusion of children younger than or barely school age (less than or equal to 5 years of age). Among the first group of studies, focused exclusively on young children, only one study dates from the end of or after the phase-out of leaded gasoline usage (Hilts, 2003). This study reports changes in children's blood Pb levels associated with reduced Pb emissions and associated air concentrations near a Pb smelter in Canada (for children through age 5). Given the timing of this study, after the leaded gasoline phase-out, and its setting near a smelter, the ambient air Pb in this study may be somewhat more comparable to that near sources in the U.S. today than other studies discussed herein. The study authors report an air-to-blood ratio of 1:6.[46] An EPA analysis of the air and blood data reported for 1996, 1999 and 2001 results in a ratio of 1:6.5, and an analysis focused only on the 1996 and 1999 data (pre- and post-the new technology) yields a ratio of 1:7 (ISA, section 3.5.1; Hilts, 2003).[47] The two other studies that focused on children of age 5 or younger analyzed variations in air Pb as a result of variations in leaded gasoline usage in Chicago, Illinois and reported somewhat higher ratios of 1:8 and 1:8.6 (Hayes et al., 1994; Schwartz and Pitcher, 1989). We note, however, the blood Pb concentrations in the two leaded gasoline studies are appreciably higher (a factor of two or more) than those in the study near the smelter (Hilts, 2003), and also than those commonly reported in the U.S. today.

The second group of studies includes but is not limited to children less than or equal to 5 years of age. This group includes a complex statistical analysis and associated dataset for a cohort of children born in Mexico City from 1987 through 1992 (Schnaas et al., 2004). Although this study, which was not assessed in the last review, encompasses the period of leaded gasoline usage, it further informs our understanding of factors influencing the quantitative relationship between air Pb and children's blood Pb. Air-to-blood ratios developed from this study are influenced by a number of factors and appear to range from roughly 1:2 to 1:6, in addition to an estimate of 1:9 (ISA, section 3.5.1), although the latter is derived from a data set restricted to the latter years of the study when little change in air Pb concentration occurred, such that the role of air Pb may be more uncertain. Estimates associated with the developmental period of highest exposure (*e.g.,* age 2 years) range up to approximately 1:6, illustrating the influence of age on the ratio (ISA, section 3.5.1). Also in the second group of studies are two much older studies of populations with age ranges extending well beyond 6 years. The first is the review and meta-analysis by Brunekreef (1984) using datasets available at the time for variously aged children as old as 18 years with identified air monitoring methods and reliable blood Pb data for 18 locations in the U.S. and internationally.[48] Two air-to-blood ratio estimates derived from this study based on log-log models both round to 1:5 (for air concentrations corresponding to the geometric means of the two sets of data pairs [1.5 and 0.54 μg/m^3]). A ratio on the order of 1:9 was derived based on the study by Schwartz and Pitcher (1989) of the relationship between U.S. NHANES II blood Pb levels for white subjects, aged ≤74 years, and national usage of leaded gasoline, adjusted for age and other covariates (Henderson, 2007a, pp. D–2 to D–3; ISA, Table 3–12).

The last two studies are focused on older children, ages 6–11 in India and Germany (Tripathi et al., 2001; Ranft et al., 2008) and employed methods to characterize media Pb concentrations that differed from the other studies assessed (PA, p. 3–11). The location-specific geometric mean blood Pb levels in the Indian study (8.6–14.4 μg/dL) indicate blood Pb distributions in this age group much higher than those pertinent to similarly aged children in the U.S. today and the air-to-blood ratio

[46] Sources of uncertainty include the role of factors other than ambient air Pb reduction in influencing decreases in blood Pb (ISA, section 3.5.1). The author cited remedial programs (*e.g.,* community and home-based dust control and education) as potentially responsible for some of the blood Pb reduction seen during the study period (1997 to 2001), although the author notes that these programs were in place in 1992, suggesting they are unlikely to have contributed to the sudden drop in blood Pb levels occurring after 1997 (Hilts, 2003). Other aspects with potential implications for ratios include the potential for children with lower blood Pb levels not to return for subsequent testing, and the age range of 6 to 36 months in the 2001 blood screening compared to ages up to 60 months in earlier years of the study (Hilts, 2003).

[47] This study considered changes in ambient air Pb levels and associated blood Pb levels over a 5-year period which included closure of an older Pb smelter and subsequent opening of a newer facility in 1997 and a temporary (3-month) shutdown of all smelting activity in the summer of 2001. The author observed that the air-to-blood ratio for children in the area over the full period was approximately 1:6. The author noted limitations in the dataset associated with exposures in the second time period, after the temporary shutdown of the facility in 2001, including sampling of a different age group at that time and a shorter time period (3 months) at these lower ambient air Pb levels prior to collection of blood Pb levels. Consequently, the EPA calculated an alternate air-to-blood Pb ratio based on ambient air Pb and blood Pb reductions in the first time period, after opening of the new facility in 1997 (ISA, section 3.5.1).

[48] In the dataset reviewed by Brunekreef (1984), air-to-blood ratios from the subset of those studies that used quality control protocols and presented adjusted slopes include values of 3.6, (Zielhuis et al., 1979), 5.2 (Billick et al., 1979, 1980); 2.9 (Billick, 1983), and 8.5 (Brunekreef et al., 1983). The studies cited here adjusted for parental education (Zielhuis et al., 1979), age and race (Billick et al., 1979, 1980) and air Pb monitor height (Billick, 1983); Brunekreef (1984) used multiple regression to control for several confounders (73 FR 66974).

estimate reported was 1:3.6 (Tripathi et al., 2001). The more recent German study by Ranft et al. (2008) analyzed data from a nearly 20-year period associated with the leaded gasoline phase-out, during which average blood Pb levels declined from 9 μg/dL in 1983 (345 children, average age of 9 years) to 3 μg/dL in 2000 (162 children, average of 6 years).[49] Average air Pb concentration declined from 0.45 μg/m^3 to 0.06 μg/m^3 over the same period, with the largest reduction occurring between the first study year (derived from two monitoring sites for full study area) and the second study year, 1991, for which air concentrations were derived from a combination of dispersion modeling and the two monitoring sites.[50] For a mean air Pb concentration of 0.1 μg/m^3, the study's multivariate loglinear regression model predicted air-to-blood ratios of 3.2 and 6.4 for ''background'' blood Pb concentrations of 1.5 and 3 μg/dL, respectively. In this study, background referred to Pb in blood from other sources; the blood Pb distribution over the study period, including levels when air Pb concentrations are lowest, indicates 3 μg/dL may be the better estimate of background for this study population. Inclusion of soil Pb as a variable in the model may have contributed to an underestimation of the blood Pb-air Pb ratios for this study because some of the Pb in soil likely originated in air and the blood Pb-air Pb slope does not include the portion of the soil/dust Pb ingestion pathway that derives from air Pb. Using univariate linear, log-log and loglinear models on the median air and blood Pb concentrations reported for the 5 years included in this study, the ISA also derived air-to-blood ratio estimates for data from this study ranging from 9 to 17 (ISA, p. 3–126; Ranft et al., 2008, Table 2). Uncertainties related to this study's estimates include those related to the bulk of air concentration reduction occurring between the first two time points (1983 and 1991) and the difference among the year's air datasets (*e.g.,* two data sources [air monitors] in 1983 and multiple geographical points from a combination of the monitors and modeling in subsequent years).

In this review, as in the 2008 Pb NAAQS review, in addition to considering the evidence presented in the published literature and that reviewed in the 1986 CD, we also consider air-to-blood ratios derived from the exposure assessment (PA, p. 3–14; 73 FR 66974, November 12, 2008; 2007 REA, section 5.2.5.2). In the exposure assessment (summarized in section II.D below), current modeling tools and information on children's activity patterns, behavior and physiology were used to estimate blood Pb levels associated with multimedia and multipathway Pb exposure. The results from the various case studies assessed, with consideration of the context in which they were derived (*e.g.,* the extent to which the range of air-related pathways was simulated, and the limitations associated with those simulations), and the multiple sources of uncertainty are also informative to our understanding of air-to-blood ratios. Estimates of air-to-blood ratios for the two REA case studies that represent localized population exposures exhibited an increasing trend across air quality scenarios representing decreasing air concentrations. For example, across the alternative standard levels assessed, which ranged from a calendar quarter average of 1.5 μg/m^3 down to a monthly average of 0.02 μg/m^3, the ratios ranged from 1:2 to 1:9 for the generalized (local) urban case study, with a similar trend, although of generally higher ratio, for the primary smelter case study subarea. This pattern of model-derived ratios is generally consistent with the range of ratios obtained from the literature, briefly discussed above. We continue to recognize a number of sources of uncertainty associated with these model-derived ratios which may contribute to high or low biases (as discussed further in section 3.1 of the PA).

The evidence on the quantitative relationship between air Pb and air-related Pb in blood is now, as in the past, limited by the circumstances (such as those related to Pb exposure) in which the data were collected. Previous reviews have recognized the significant variability in air-to-blood ratios for different populations exposed to Pb through different air-related exposure pathways and at different air and blood levels, with the 1986 CD noting that ratios derived from studies involving the higher blood and air Pb levels pertaining to occupationally exposed workers are generally smaller than ratios from studies involving lower blood and air Pb levels (ISA, p. 3–132; 1986 CD, p. 11–99). Consistent with this observation, slopes in the range of 3 to 5 were estimated for child population datasets assessed in the 1986 CD (ISA, p. 3–132; 1986 CD p. 11–100; Brunekreef, 1984). Additional studies considered in the last review and those assessed in the ISA provide evidence of ratios above this older range (ISA, p. 3–133). For example, a ratio of 1:6.5–1:7 is indicated by the study by Hilts (2003), one of the few studies that evaluate the air Pb-blood Pb relationship in conditions that are closer to the current state in the U.S. (ISA, p. 3–132). We additionally note the variety of factors identified in the ISA that may potentially affect estimates of various ratios (including potentially coincident reductions in nonair Pb sources during the course of the studies), and for which a lack of complete information may preclude any adjustment of estimates to account for their role (ISA, section 3.5).

In summary, as at the time of the last review of the NAAQS for Pb, the currently available evidence includes estimates of air-to-blood ratios, both empirical and model-derived, with associated limitations and related uncertainties. These limitations and uncertainties, which are summarized here and also noted in the ISA, usually include uncertainty associated with reductions in other Pb sources during the study period. The limited amount of new information available in this review has not appreciably altered the scientific conclusions reached in the last review regarding relationships between Pb in ambient air and Pb in children's blood or with regard to the range of ratios. The currently available evidence continues to indicate ratios relevant to the population of young children in the U.S. today, reflecting multiple air-related pathways in addition to inhalation, to be generally consistent with the approximate range of 1:5 to 1:10 given particular attention in the 2008 NAAQS decision, including the ''generally central estimate'' of 1:7 (73 FR 67002, 67004, November 12, 2008; ISA, pp. 3–132 to 3–133).

D. Summary of Risk and Exposure Assessment Information

The risk information available for this review and summarized here is based primarily on the exposure and risk assessment developed in the last review of the Pb NAAQS, described in the 2007 REA, the 2007 Staff Paper and the 2008 notice of final decision (USEPA, 2007a; USEPA, 2007b; 73 FR 66964, November 12, 2008), as considered in the context of the evidence newly available in this review (PA, section 3.4). As described in

[49] Blood Pb measurements were available on a total of 843 children across five time periods, in the first of which the average child age was 9 years while it was approximately 6 years in each of the latter years: 1983 (n=356), 1991 (n=147), 1994 (n=122), 1997 (n=56), and 2000 (n=162) (Ranft et al., 2008).

[50] The 1983 air Pb concentrations were based on two monitoring stations, while a combination of dispersion modeling and monitoring data was used in the later years. Surface soil Pb measurements were from 2000–2001, but geo-matched to blood Pb measurements across full study period (Ranft et al., 2008).

the REA Planning Document, careful consideration of the information newly available in this review, with regard to designing and implementing a full REA for this review, led to the conclusion that performance of a new REA for this review was not warranted. We did not find the information newly available in this review to provide the means by which to develop an updated or enhanced risk model that would substantially improve the utility of risk estimates in informing the current Pb NAAQS review (REA Planning Document, section 2.3). Based on their consideration of the REA Planning Document analysis, the CASAC Pb Review Panel generally concurred with the conclusion that a new REA was not warranted in this review (Frey, 2011b).[51] Accordingly, the risk/exposure information considered in this review is drawn primarily from the 2007 REA, augmented by a limited new computation for one case study focused on risk associated with the current standard, as described below (PA, section 3.4 and Appendix 3A).

1. Overview

The focus for the risk assessment and associated estimates is on Pb derived from sources emitting Pb to ambient air. As discussed in section I.D above, the multimedia and persistent nature of Pb, the role of multiple exposure pathways, and the contributions of nonair sources of Pb to human exposure media all present challenges and contribute significant additional complexity to the health risk assessment that goes far beyond the situation for similar assessments typically performed for other NAAQS pollutants (*e.g.,* that focus only on the inhalation pathway). The conceptual model that informed planning for the 2007 REA identified sources, pathways, routes, exposed populations, and health endpoints, focusing on those aspects of Pb exposure most relevant to the review, while also recognizing the role of Pb exposure pathways unrelated to Pb in ambient air (2007 REA, section 2.1). Limitations in the available data and models affected our characterization of the various complexities associated with exposure to ambient air Pb. As a result, the assessment included a number of simplifying assumptions in a number of areas and the estimates of air-related Pb risk produced are approximate and are characterized by upper and lower bounds.

As recognized in I.D above, sources of human Pb exposure include current and historical air emissions sources, as well as miscellaneous nonair sources, which can contribute to multiple exposure media and associated pathways (*e.g.,* inhalation of ambient air, ingestion of indoor dust, outdoor soil/dust and diet or drinking water). In addition to airborne emissions (recent or those in the past), sources of Pb to these pathways also include old leaded paint, including Pb mobilized indoors during renovation/repair activities, and contaminated soils. Lead in diet and drinking water may have air pathway-related contributions as well as contributions from nonair sources (*e.g.,* Pb solder on water distribution pipes and Pb in materials used in food processing). Limitations in our data and modeling tools handicapped our ability to fully separate the nonair contributions to Pb exposure from estimates of air-related Pb exposure and risk. As a result, we have developed bounds within which we estimate air-related Pb risk to fall. The lower bound is based on a combination of pathway-specific estimates that do not completely represent all air-related pathways, while the upper bound is based on a combination of pathway-specific estimates that includes pathways that are not air-related but the separating out of which is precluded by modeling and data limitations.

Inclusion of exposure populations, exposure/dose metric, health effects endpoint and risk metric in the 2007 REA were based on consideration of the then-currently available evidence as assessed in detail in the 2006 CD. As discussed in the REA Planning Document (USEPA, 2011b), these selections continue to be supported by the evidence now available in this review as described in the ISA. The REA focused on risk to the central nervous system in childhood as the most sensitive effect that could be quantitatively assessed, with decrement in IQ used as the risk metric. Exposure and biokinetic modeling was used to estimate blood Pb concentrations in children exposed to Pb up to age 7 years.[52] This focus reflected the evidence for young children with regard to air-related exposure pathways and susceptibility to Pb health impacts (*e.g.,* ISA, sections 3.1.1, 4.3, 5.2.1.1, 5.3.1.1, and 5.4). For example, the hand-to-mouth activity of young children contributes to their Pb exposure (*i.e.,* incidental soil and indoor dust ingestion) and ambient air-related Pb has been shown to contribute to Pb in outdoor soil and indoor house dust (ISA, sections 3.1.1 and 3.4.1; 2006 CD, section 3.2.3).

The 2007 REA relied on a case study approach to provide estimates that inform our understanding of air-related exposure and risk in different types of air Pb exposure situations. Lead exposure and associated risk were estimated for multiple case studies that generally represent two types of residential population exposures to air-related Pb: (1) Location-specific urban populations of children with a broad range of air-related exposures, reflecting existence of urban concentration gradients; and (2) children residing in localized areas with air-related exposures representing air concentrations specifically reflecting the standard level being evaluated (see PA, Table 3–6). Thus, the two types of case studies differed with regard to the extent to which they represented population variability in air-related Pb exposure.

In drawing on the 2007 REA for our purposes in this review, we focused on two case studies, one from each of these two categories: (1) The location-specific urban case study for Chicago and (2) the generalized (local) urban case study (PA, Table 3–6). Accordingly, our summary of analysis details below focuses on details particular to these two case studies. The generalized (local) urban case study (also referred to as *general urban case study*) was not based on a specific geographic location and reflected several simplifying assumptions in representing exposure including uniform ambient air Pb levels associated with the standard of interest across the hypothetical study area and a uniform study population. Based on the nature of the population exposures represented by the two categories of case study, the generalized (local) urban case study includes populations that are relatively more highly exposed by way of air pathways to air Pb concentrations near the standard level evaluated, compared with the populations in the location-specific urban case. The location-specific urban case studies provided representations of urban populations with a broad range of air-related exposures due to spatial gradients in both ambient air Pb levels and population density. For example, the highest air concentrations in these case studies (*i.e.,* those closest to the standard being assessed) were found in very small parts of the study areas, while a large majority of the case study

[51] In their review of the draft PA, the CASAC Pb Review Panel reinforced their concurrence with the EPA's decision not to develop a new REA (Frey, 2013).

[52] The pathways represented in this modeling included childhood inhalation and ingestion pathways, as well as maternal contributions to newborn body burden (2007 REA, Appendix H, Exhibit H–6).

populations resided in areas with much lower air concentrations.

2. Summary of Design Aspects

The approach to assessing exposure and risk for the two categories of case studies was comprised of four main analytical steps: (1) Estimation of ambient air Pb concentrations, (2) estimation of Pb concentrations in other key exposure media, including outdoor soil and indoor dust, (3) use of exposure media Pb concentrations, with other pathway Pb intake rates (*e.g.,* diet), to estimate blood Pb levels in children using biokinetic modeling, and (4) use of C–R functions derived from epidemiological studies to estimate IQ loss associated with the blood Pb levels.

Concentrations of Pb were estimated in ambient media and indoor dust using a combination of empirical data and modeling projections. The use of empirical data brings with it uncertainty related to the potential inclusion of nonair source signals in these measurements (*e.g.,* house paint contributions to indoor dust and outdoor soil Pb). Conversely, the use of modeling tools introduces other uncertainties (*e.g.,* model and parameter uncertainties).

Characterization of Pb in ambient air relied on (1) the use of ambient monitor data for the location-specific urban case studies and (2) an assumption of uniform ambient air Pb levels (matching the standard level being considered) for the generalized (local) urban case study. For the location-specific urban case studies, we used Pb monitors within each study area to characterize spatial gradients. By contrast, the generalized (local) urban case study is designed to assess exposure and risk for a smaller group of residents (*e.g.,* neighborhood) exposed at the level of the standard and, therefore, did not rely on monitor data; rather, ambient air Pb concentration was fixed at the standard being assessed. For the generalized (local) urban case study, which has a single exposure zone in which air Pb concentrations do not vary spatially, we derived a single air Pb concentration estimate to meet the standard assessed. Concentrations in the location-specific urban study areas, which relied on empirical (monitor-based) data to define ambient air Pb concentrations, reflected contributions from all sources affecting the concentrations in those locations, be they currently active stationary or mobile sources, resuspension of previously deposited Pb or other.[53]

The air quality scenarios assessed in the 2007 REA included conditions just meeting the NAAQS that was current at the time of the last review (1.5 μg/m^3, as a calendar quarter average), conditions meeting several alternative, lower standards,[54] and current conditions in the three location-specific urban case studies (PA, section 3.4.3.2). The full impact of changes in air Pb conditions associated with attainment of lower standards was not simulated, however, due to limitations in the available data and modeling tools that precluded simulation of linkages between some media and air Pb. Specifically, while Pb concentrations in indoor dust were simulated to change with the different air quality scenarios for which there were differing ambient air Pb concentrations (outdoors and indoors), dietary and drinking water Pb concentrations, as well as soil Pb concentrations, were not varied across the air quality scenarios in any case study (see PA, Table 3–7).[55]

In estimating blood Pb levels using the IEUBK model, Pb concentrations in exposure media (*e.g.,* ambient air, diet, water, indoor dust) were held constant throughout the 7-year simulation period, while behavioral and physiological variables were changed with age of child (2007 REA, sections 3.2.1.1 and 5.2.4). Detail on methods used to characterize media Pb concentrations and all IEUBK inputs for each case study are in the 2007 REA, sections 3.1, 3.2, 5.2.3 and 5.2.4, and appendices C through H. Population variability in Pb intake and uptake was simulated through use of the IEUBK model to first generate a central-tendency estimate of the blood Pb levels for the group of children within a given exposure zone of a study area, coupled with use of a geometric standard deviation (GSD) and for the location-specific case studies, Monte Carlo-based population sampling (PA, section 3.4; 2007 REA, Appendix H). The risk characterization step employed in the 2007 REA generated a distribution of IQ loss estimates for the set of children simulated in the assessment.

Specifically, blood Pb estimates for the concurrent blood Pb metric[56] were combined with four C–R functions for blood Pb concentration with IQ loss based on the analysis by Lanphear et al. (2005) of a pooled international dataset of blood Pb and IQ (see the 2007 REA, section 5.3.1.1). We used the four different C–R functions to provide different characterizations of behavior at low exposures in recognition of uncertainty related to modeling this endpoint, particularly at lower blood Pb levels for which there is limited representation in the Lanphear et al. (2005) pooled dataset.[57] In considering the risk estimates here (as in the last review), we focus on estimates for one of the four functions (referred to as the loglinear with low-exposure linearization C–R function [PA, section 3.4.3.3]). The range of risk estimates reflecting all four C–R functions provide perspective on the impact of uncertainty in this key modeling step. Additional detail on the C–R functions is provided in the PA and the 2007 Pb Staff Paper (PA, section 3.4.3.3; USEPA, 2007b, section 4.2.1).[58] We focus on the median IQ loss estimates, as in the last review, due to increased confidence in these estimates relative to the higher percentile estimates, for which we recognize significant uncertainty (PA,

[53] Additional detail on estimation of ambient (outdoor) and indoor air concentrations is presented in section 5.2.2 and Appendices A through D of the 2007 REA.

[54] The alternatives lower than the NAAQS at the time of the last review for which air quality scenarios were assessed were a maximum calendar quarter average of 0.2 μg/m^3 and maximum monthly averages of 0.5, 0.2, 0.05 and 0.02 μg/m^3 (PA, Table 3–8).

[55] Characterization of Pb concentrations in outdoor surface soil/dust for the generalized (local) and location-specific urban cases studies was based on the use of nationally representative residential soil measurements obtained from the literature (2007 REA, sections 3.1.3 and 5.2.2.2 and Appendix F). Diet and drinking water intake and concentrations, as well as other model inputs, were based on the most current information (2007 REA, Appendix H).

[56] As in the last review, we give primary emphasis to estimates based on the concurrent blood Pb metric, consistent with CASAC advice in the last review (Henderson, 2007b).

[57] The 5th percentile for the concurrent blood Pb measurements in that dataset is 2.5 μg/dL, and the median is 9.7 μg/dL (Lanphear et al., 2005).

[58] As noted in section II.B.3 above, since the completion of the ISA in the current review, two errors have been identified with the pooled dataset analyzed by Lanphear et al., (2005) (Kirrane and Patel, 2014). The EPA and a recent publication have separately recalculated the statistics and mathematical models of Lanphear et al., (2005) using the corrected pooled dataset (Kirrane and Patel, 2014). While the conclusions drawn from these coefficients, including the finding of a steeper slope at lower (as compared to higher) blood Pb concentrations, are unaffected, the magnitude of the loglinear and linear regression coefficients are somewhat lower based on the corrections. For example, the loglinear model coefficient used for the C–R function, on which the EPA focused in the last review and also focuses on here, changed only negligibly from −2.7 to −2.65 when recalculated using the corrected pooled dataset (Kirrane and Patel, 2014). As a result, the risk estimates for this function would be expected to be very similar although slightly lower if derived using the recalculated loglinear model coefficient for the corrected dataset. Since the loglinear model coefficient calculated from the corrected dataset is unchanged at two significant figures from that original reported, any change to the risk estimates would be very small and, particularly in light of other uncertainties in the analysis, does not materially affect staff's consideration of the results.

sections 3.4.5, 3.4.6 and 3.4.7; 2007 Staff Paper, p. 4–20).

As the 2007 REA did not include an air quality scenario simulated to just meet the standard selected by the 2008 decision,[59] we employed two different approaches to estimate risk pertaining to conditions just meeting the current Pb standard (set in 2008) for our purposes in this review. First, given the similarity to the current standard of the then-current conditions scenario for the Chicago case study (among all the 2007 REA scenarios), we consider the risk estimates for that scenario as informative with regard to risk associated with the current standard.[60] To augment the risk information available in this current review and in recognition of the variation among specific locations and urban areas with regard to air quality patterns and exposed population, we have also newly developed estimates for an air quality scenario just meeting the current Pb NAAQS in the context of the generalized (local) urban case study. These estimates were derived based on interpolation from the risk estimates available for scenarios previously assessed for the generalized (local) urban case study. Such interpolated estimates were only developed for the generalized urban case study due to its use of a single exposure zone which greatly simplified the method employed.[61]

The general approach we followed to newly develop estimates for the current standard in the generalized (local) urban case study was to identify the two alternative standard scenarios simulated in the 2007 REA which represented air quality conditions bracketing those for the current standard and then linearly interpolate an estimate of risk for the current standard based on the slope created from the two bracketing estimates (PA, section 3.4.3.3.2 and Appendix 3A). By this method, the air quality scenario for the current standard (0.15 μg/m^3, as a not-to-be-exceeded 3-month average) was found to be bracketed by the scenarios for alternative standards of 0.20 μg/m^3 (maximum calendar quarter average) and 0.20 μg/m^3 (maximum monthly average). Using interpolation between the risk estimates for these two scenarios, we developed median risk estimates for the current standard (PA, Appendix 3A).

3. Key Limitations and Uncertainties

In characterizing risk associated with Pb from air-related exposure pathways, we faced a variety of challenges and employed a number of methods. The challenges related to significant data and modeling limitations which affected our ability to parse out the portion of total (all-pathway) blood Pb and IQ loss attributable to air-related pathways, as well as our representation of key sources of variability and characterization of uncertainty. Although we separated total estimates into risk estimates for diet/drinking water and two air-related categories (''recent air'' and ''past air''), significant limitations in our modeling tools and data resulted in an inability to parse risk estimates specific to the air-related pathways. For example, we recognize that Pb in diet and drinking water sources may include some Pb derived from Pb in the ambient air, as well as Pb from nonair sources, but limitations precluded explicit modeling of the contribution from air pathways to these exposure pathways, such that the air-related component of these exposures was not estimated. Rather, we focused on estimates from the two air-related categories, which we considered to under- and over-estimate air-related risk, respectively, to create bounds within which we consider air-related risk to fall.

The first air-related category (''recent'') included Pb exposure pathways tied most directly to ambient air, which consequently have the potential to respond relatively more quickly to changes in air Pb (*i.e.,* inhalation and ingestion of indoor dust Pb derived from the infiltration of ambient air Pb indoors). Importantly, media concentrations associated with the pathways in this category were simulated to change in response to air concentrations (as noted in section II.D.2 above and described in section 3.4.3.1 of the PA). The air-related Pb exposure pathways in the second air-related category (''past air''), all of which are associated with atmospheric deposition, included ingestion of Pb in outdoor dust/soil and ingestion of the portion of Pb in indoor dust that after deposition from ambient air outdoors is carried indoors with humans. While there is the potential for these other air-related exposures to be affected (over some time frame) by changes in air Pb concentrations (associated with an adjustment to the Pb standard), limitations in our data and tools precluded simulation of that relationship. Consequently, risk estimated for this category reflects media measurements available for the 2007 REA and is identical for all air quality scenarios. Further, although paint is not an air-related source of Pb exposure, it may be reflected somewhat in estimates developed for the ''past air'' category, due to modeling constraints (2007 Staff Paper, section 4.2.4). Thus, as exposures included in the first air-related category (''recent'') do not completely capture all air-related pathways, we consider risk for this category an underestimate of air-related risk. Yet, as exposures included in the second air-related category include pathways that are not air-related, we consider the summed risk across both categories to include a slight over-estimate of air-related risk.

In summary, because of limitations in the assessment design, data and modeling tools, we consider our estimates of risk attributable to air-related exposure pathways to be approximate and to be bounded on the low end by the risk estimated for the ''recent air'' category and on the upper end by the risk estimated for the ''recent air'' plus ''past air'' categories. With regard to the latter, we are additionally cognizant of the modeling and data limitations which reduce the extent to which the upper end of these bounds reflects impacts of alternative air quality conditions simulated. We note that this limitation will tend to contribute to estimates for the ''past air'' category representing relatively greater overestimates with relatively lower air Pb air quality scenarios.

We recognize several important sources of variability in air-related Pb exposures and associated risk, for which the approaches by which they were addressed in the 2007 REA are summarized here (PA, section 3.4.6).

- Variation in distributions of potential urban residential exposure and risk across U.S. urban residential areas is addressed by the inclusion of location-specific urban study areas that reflect a diverse set of urban areas in the U.S.

[59] The 2008 decision on the level for the revised NAAQS was based primarily on consideration of the evidence-based air-related IQ loss framework; risk estimates available for scenarios simulated in the 2007 REA were concluded to be roughly consistent with and generally supportive of the evidence-based air-related IQ loss estimates (see section II.A.1 above).

[60] In the Chicago urban case study, the maximum monthly average concentration was 0.31 μg/m^3, and the maximum calendar quarter average concentration was 0.14 μg/m^3 (2003–2005 data; 2007 REA, Appendix O).

[61] We did not interpolate risk estimates for the current standard for the other case studies (*i.e.,* the primary Pb smelter and location-specific urban case studies) because those case studies utilized a more complex, spatially-differentiated and population-based approach (see 2007 REA) which precludes application of the simple linear interpolation approach described, without introduction of substantial added uncertainty (relative to the other estimates for the same case study). The simplicity of the generalized (local) urban study area, however, with its single exposure zone, is amenable to the linear interpolation of risk described here.

• Representation of a more highly exposed subset of urban residents potentially exposed at the level of the standard is addressed by the inclusion of the generalized (local) urban study area.

• Variation in residential exposure to ambient air Pb within an urban area of the location-specific case studies is addressed through the partitioning of these study areas into exposure zones to provide some representation of spatial gradients in ambient air Pb and their interaction with population distribution and demographics.

• Inter-individual variability in blood Pb levels is addressed through the use of empirically derived GSDs to develop blood Pb distribution for the child population in each exposure zone, with GSDs selected particular to each case study population.

• Inter-individual variability in IQ response to blood Pb is addressed through the use of C–R functions for IQ loss based on a pooled analysis reflecting studies of diverse populations.

With regard to uncertainties, we recognize one overarching area concerning the precision of our estimation of the neurocognitive risk (as represented by IQ loss) associated with ambient air Pb. For reasons related to the evidence of nonlinear responses of blood Pb to Pb exposure and of Pb-associated IQ response to blood Pb, the 2007 REA first estimated blood Pb levels and associated risk for total Pb exposure (*i.e.,* including Pb from air-related and nonair exposure pathways) and then separated out estimates for pathways of interest (PA, section 3.4.4). However, as described above, significant limitations in our modeling tools affected our ability to develop precise estimates for air-related exposure pathways. We believe these limitations led to a slight overestimation of the risks for the ''past air'' category and to an under-representation of air-related pathways for the ''recent air'' category. Thus, we characterized the risk attributable to air-related exposure pathways to be bounded by the estimates developed for the ''past air'' category and the sum of estimates for the ''recent air'' and ''past air'' categories. For air quality scenarios other than those for the previous NAAQS, this upper bound is recognized as having a potential upward bias with regard to its reflection of the simulated air quality conditions because modeling and data limitations precluded simulation of the influence of lower air Pb concentrations on the outdoor dust and soil exposure pathways (PA, section 3.4.4).

We recognize a range of additional uncertainties, limitations, and assumptions that are reflected in various ways in the 2007 REA and associated results (PA, section 3.4.7), which include the following.

• *Temporal Aspects:* During the 7-year exposure period, media concentrations remain fixed and the simulated child resides at the same residence (although exposure factors, including behavioral and physiological parameters, are adjusted to match the aging of the child). These aspects introduce uncertainty into the risk estimates, although the existence of a directional bias is unclear.

• *Generalized (local) Urban Case Study:* The design for this case study employs assumptions regarding uniformity that are reasonable in the context of a general description of a small neighborhood population but would contribute significant uncertainty to extrapolation of these estimates to a specific urban location, particularly a relatively large one. An additional area of uncertainty concerns the representation of variability in air quality. Given the relatively greater variability common in areas of high Pb concentrations, the approach used to reflect variability may bias the estimates high.

• *Location-specific Urban Case Studies:* Limitations in the spatial density of ambient air monitors in the simulated areas limit our characterization of spatial gradients of ambient air Pb levels in these case studies. This factor introduces uncertainty into the risk estimates for this category of case study; the existence of a directional bias is unclear.

• *Air Quality Simulation:* Focus on only then-current conditions (2003–2005) scenario for the Chicago urban case study in this review precludes uncertainty associated with simulations of alternative air quality scenarios in the 2007 REA.

• *Outdoor Soil/Dust Pb Concentrations:* Limitations in datasets on Pb levels in surface soil/dust Pb in urban areas and in our ability to simulate the impact of reduced air Pb levels related to lowering the NAAQS in the 2007 REA contribute uncertainty to air-related risk estimates for the current standard in the generalized (local) urban case study. The likely impact is a high bias on these risk estimates (related to low bias on estimating risk reduction for lower standard levels in the 2007 REA) given lack of simulated changes in soil Pb related to changes in ambient air Pb.

• *Indoor Dust Pb Concentrations:* Limitations and uncertainty in modeling of indoor dust Pb levels, including the impact of reductions in ambient air Pb levels, contributes uncertainty to air-related risk estimates. Although the indoor dust modeling does link changes in ambient air Pb to changes in indoor dust Pb, it does not include a link between ambient air Pb, outdoor soil Pb and subsequent changes in the level of Pb carried (or ''tracked'') into the house. This could introduce low bias into the total estimates of air-related Pb exposure and risk.

• *Interindividual Variability in Blood Pb Levels:* Uncertainty related to population variability in blood Pb levels related to interindividual variability in factors other than media concentration and limitations in modeling of this introduces significant uncertainty into blood Pb and IQ loss estimates for the 95th percentile of the population. The extent of any systematic bias from this source of uncertainty is unknown.

• *Pathway Apportionment for Higher Percentile Blood Pb and Risks:* Limitations, primarily in data, prevented us from characterizing the degree of correlation among high-end Pb exposures for the various pathways (*e.g.,* the degree to which an individual experiencing high drinking water Pb exposure would also experience high Pb paint exposure and high ambient air-related Pb exposure). Our inability to characterize potential correlations between exposure pathways (particularly at the higher percentile exposure levels) limited our ability to (1) effectively model high-end Pb risk and (2) apportion that risk between different exposure pathways, including ambient air-related pathways.

• *IQ Loss C–R Functions:* Specification of the quantitative relationship between blood Pb level and IQ loss is subject to greater uncertainty at lower blood Pb levels. The use of four C–R functions models (which each treat the response at low blood Pb levels in a different manner) is considered to provide a reasonable characterization of this source of uncertainty and its impact on risk estimates. Comparison of risk estimates from the four models indicates this source of uncertainty to have a potentially significant impact on risk.

4. Summary of Risk Estimates and Key Observations

In this summary of risk estimates, drawn from the PA, we focus on the estimates of air-related IQ loss derived using the C–R function in which we have greatest confidence (see PA, sections 3.4.3.3.1 and 3.4.7) for the median child in a given case study (exposure modeled through age 7 years), given the substantially greater uncertainty associated with air-related

risk estimates for extremes of the risk distribution, such as the 95th percentile (PA, section 3.4). Estimates for other risk metrics and the full range of case studies and air quality scenarios are described elsewhere in detail (*e.g.,* 2007 REA, sections 4.2 and 5.3.2 and appendices; 2007 Staff Paper, chapter 4; 73 FR 66964, November 12, 2008). Based on results from the 2007 REA for a location-specific urban study area (Chicago case study) and on those newly derived in this review based on interpolation from the 2007 REA results (for the generalized [local] urban case study), median air-related IQ loss for the current standard is estimated, with rounding, to generally fall near or somewhat above a rough lower bound of 1 point IQ loss and below a rough upper bound of 3 points IQ loss. As would be expected by the use of interpolation, the newly derived estimates are consistent with the estimates for similar air quality scenarios that were available in the last review (PA, section 3.4.5). For example, the generalized (local) urban case study current standard scenario estimates for median air-related IQ loss are identical to those for the scenario of just meeting a potential alternative of 0.2 μg/m^3 maximum calendar quarter average for that case study (PA, Table 3–11). Further, the upper bound below which the median IQ loss is estimated to fall is also approximately 3 IQ points in the generalized (local) urban case study scenarios for just meeting potential alternatives of 0.2 μg/m^3, 0.05 and 0.02 μg/m^3 maximum monthly average, providing an indication of the limitations associated with estimating air-related Pb exposures and risk for lower air Pb scenarios (PA, sections 3.4.4 and 3.4.5).

As summarized in section II.D.3 above, a range of limitations and areas of uncertainty were associated with the information available in the last review (PA, sections 3.4.4, 3.4.6 and 3.4.7). In this review, the REA Planning Document concluded that none of the primary sources of uncertainty identified to have the greatest impact on risk estimates would be substantially reduced through the use of newly available information (USEPA, 2011b). Thus, the key observations regarding air-related Pb risk modeled for the set of standard levels assessed in the 2007 REA, as well as the risk estimates interpolated for the current standard, are not significantly affected by the new information. Further, our overall characterization of uncertainty and variability associated with those estimates (as summarized above and in sections 3.4.6 and 3.4.7 of the PA) is not appreciably affected by new information. As recognized at the time of the last review, exposure and risk modeling conducted for this analysis was complex and subject to significant uncertainties due to limitations in the data and models, among other aspects. Of particular note, limitations in the assessment design, data and modeling tools handicapped us from sharply separating Pb linked to ambient air from Pb that is not air related.

In summary, the estimates of risk attributable to air-related exposures, with which we recognize a variety of sources of uncertainty, are considered to be approximate, falling within upper and lower bounds. These bounds for scenarios just meeting the current standard are roughly estimated, with rounding, as 3 and 1 IQ points, which over- and underestimate risk, respectively. In characterizing the magnitude of air-related risk associated with the current standard, we focus on median estimates, for which we have appreciably greater confidence than estimates for outer ends of the risk distribution (see PA, section 3.4.7) and on risks derived using the C–R function in which we have greatest confidence (see PA, sections 3.4.3.3.1 and 3.4.7). These risk results for the current standard, both those estimated in the last review for one of the location-specific urban study area populations and those newly derived in this review using interpolation of the estimates from the last review for the generalized (local) urban case study, which is recognized to reflect a generalized high end of air-related exposure for localized populations, provide approximate bounds for air-related risk, with attendant uncertainties described above. Focusing on the results for the generalized (local) urban case study, the interpolated estimates for the scenario representing the current standard are very similar to estimates for the two 0.2 μg/m^3 scenarios (maximum monthly and calendar quarter averages) simulated in the 2007 REA [62] and are appreciably lower than those associated with the previous standard. For this case study, across the two 0.2 μg/m^3 scenarios, the current standard scenario and the more restrictive air quality scenarios, the upper bound below which air-related risk is estimated to fall rounds to the same value, reflecting the significant limitations associated with developing precise estimates of air-related risk, particularly for the lower air Pb scenarios (PA, sections 3.4.4, 3.4.5, and 3.4.7).

E. Conclusions on Adequacy of the Current Primary Standard

In evaluating whether, in view of the advances in scientific knowledge and additional information now available, it is appropriate to retain or revise the current standard, the Administrator builds upon the last review and reflects upon the body of evidence and information now available. The Administrator has taken into account both evidence-based and quantitative exposure- and risk-based considerations in developing conclusions on the adequacy of the current primary Pb standard. Evidence-based considerations draw upon the EPA's assessment and integrated synthesis of the scientific evidence from epidemiological studies and experimental animal studies evaluating health effects related to exposures to Pb, with a focus on policy-relevant considerations as discussed in the PA. The exposure/risk-based considerations draw from the results of the quantitative analyses presented in the 2007 REA, augmented as described in the PA, and summarized in section II.D above, and consideration of those results in the PA. More specifically, estimates of the magnitude of ambient Pb-related exposures for young children and associated impacts on IQ associated with just meeting the current primary Pb NAAQS have been considered. Together the evidence-based and risk-based considerations have informed the Administrator's proposed conclusions related to the adequacy of the current Pb standard in light of the currently available scientific evidence.

As described in section II.A.2 above, consideration of the evidence and the exposure/risk information in the PA and by the Administrator is framed by consideration of a series of key policy-relevant questions. The following sections describe the consideration of these questions in the PA, the advice received from CASAC, as well as the comments received from various parties, and then present the Administrator's proposed conclusions regarding the adequacy of the current primary standard.

1. Evidence-Based Considerations in the Policy Assessment

In considering the evidence with regard to the issue of adequacy of the current standard, the PA addresses several questions that build on the information summarized in sections II.B and II.C above (and sections 3.1 through

[62] There is uncertainty associated with judging differences between the current standard and these potential alternative standards due to the difference in air quality datasets used to estimate air concentration variability of the 2007 REA estimates versus the interpolated risk estimate.

3.3 of the PA) to more broadly address the extent to which the current evidence base supports the adequacy of the public health protection afforded by the current primary standard. The first question addresses the integrated consideration of the health effects evidence, in light of aspects described in sections II.A.1 and II.A.2 above. The second question focuses on consideration of associated areas of uncertainty. The third question then integrates consideration of the prior two questions with a focus on the standard, including each of the four elements. The PA considerations and conclusions with regard to these questions are summarized below.

In considering the extent to which information newly available in this review may have altered scientific support for the occurrence of health effects associated with Pb in ambient air, the PA concludes that the current evidence continues to support the EPA's conclusions from the previous review regarding key aspects of the health effects evidence for Pb and the health effects of multimedia exposure associated with levels of Pb occurring in ambient air in the U.S. (PA, section 4.2.1). The conclusions in this regard are based on consideration of the assessment of the currently available evidence in the ISA, particularly with regard to key aspects summarized in Chapter 3 of the PA, in light of the assessment of the evidence in the last review as described in the 2006 CD and summarized in the notice of final rulemaking (73 FR 66964, November 12, 2008). Key aspects of these conclusions are summarized below.

As at the time of the last review, blood Pb continues to be the predominant biomarker employed to assess exposure and health risk of Pb (ISA, Chapters 3 and 4), as discussed in section II.C above. This widely accepted role of blood Pb in assessing exposure and risk is illustrated by its established use in programs to prevent both occupational Pb poisoning and childhood Pb poisoning, with the latter program, implemented by the CDC, recently issuing updated guidance on blood Pb measurement interpretation (CDC, 2012). As in the past, the current evidence continues to indicate the close linkage of blood Pb levels in young children to their body burden; this linkage is associated with the ongoing bone remodeling during that lifestage (ISA, section 3.3.5). This tight linkage plays a role in the somewhat rapid response of children's blood Pb to changes in exposure (particularly to exposure increases), which contributes to its usefulness as an exposure biomarker (ISA, sections 3.2.2, 3.3.5, and 3.3.5.1). Additionally, the weight of evidence documenting relationships between children's blood Pb and health effects, most particularly those on the nervous and hematological systems (*e.g.,* ISA, sections 4.3 and 4.7), speaks to its usefulness in assessing health risk.

As in the last review, the evidence on air-to-blood relationships available today continues to be composed of studies based on an array of circumstances and population groups (of different age ranges), analyzed by a variety of techniques, which together contribute to appreciable variability in the associated quantitative estimates and uncertainty with regard to the relationships existing in the U.S. today. Accordingly, interpretation of this evidence base, as discussed in section II.C above, also includes consideration of factors that may be influencing various study estimates. We consider the study estimates in light of such factors both with regard to the extent to which the factors affect the usefulness of specific study estimates for the general purpose here of quantitatively characterizing relationships between Pb in ambient air and air-related Pb in children's blood and also with regard to the pertinence of such factors more specifically to conditions and populations in the U.S. today. As noted in the PA, the current evidence, while including two additional studies not available at the time of the last review, is not appreciably changed from that available in the last review (PA, section 3.1). The range of estimates that can be derived from the full dataset is broad and not changed by the inclusion of the newly available estimates. Further, the PA recognizes significant uncertainties regarding the air Pb to air-related blood Pb relationship for the current conditions where concentrations of Pb in both ambient air and children's blood are substantially lower than they have been in the past. In considering the strengths, limitations and uncertainties associated with the full dataset, the currently available evidence appears to continue to support a range of estimates for the purpose at hand that is generally consistent with the range given weight in the last review, 1:5 to 1:10 (ISA, section 3.7.4 and Table 3–12; 73 FR 67001–2, 67004, November 12, 2008). The PA additionally notes that the generally central estimate of 1:7 identified for this range in the last review is consistent with the study involving blood Pb for pre-school children and air Pb conditions near a large source of Pb to ambient air with concentrations near (and/or previously above) the level of the current Pb standard (ISA, section 3.5.1; Hilts, 2003).[63] In so noting, the PA also recognizes the general overlap of such circumstances with those represented by the evidence-based, air-related IQ loss framework,[64] for which air-to-blood ratio is a key input. In characterizing the range of air-to-blood ratio estimates, we recognize uncertainty inherent in such estimates as well as the variation in currently available estimates resulting from a variety of factors, including differences in the populations examined, as well as in the Pb sources or exposure pathways addressed in those study analyses (ISA, section 3.7.4).

The scientific evidence continues to recognize a broad array of health effects on multiple organ systems or biological processes related to blood Pb, including Pb in blood prenatally (ISA, section 1.6). The currently available evidence continues to support identification of neurocognitive effects in young children as the most sensitive endpoint associated with blood Pb concentrations (ISA, section 1.6.1), which as an integrated index of exposure reflects the aggregate exposure to all sources of Pb through multiple pathways (inhalation and ingestion). Evidence continues to indicate that some neurocognitive effects in young children may not be reversible and may have effects that persist into adulthood (ISA, section 1.9.5). Thus, as discussed in section II.B. above, the evidence of Pb effects at the low end of the studied blood Pb levels (closest to those common in the U.S. today) continues to be strongest and of greatest concern for effects on the nervous system, most particularly those on cognitive function in children.

As in the last review, evidence on risk factors continues to support the identification of young children as an important at-risk population for Pb health effects (ISA, section 5.4). The current evidence also continues to indicate important roles as factors that increase risk of Pb-related health effects for the following: Nutritional factors, such as iron and calcium intake; elevated blood Pb levels; and proximity to sources of Pb exposure, such as industrial releases or buildings with old,

[63] The older study by Hayes et al. (1994) during time of leaded gasoline indicated a generally similar ratio of 1:8, although the blood Pb levels in that study were much higher than those in the study by Hilts (2003). Among the studies focused on this age group, the latter study includes blood Pb levels closest to those in U.S. today.

[64] Concentrations near air sources are higher than those at more distant sites (as described in PA, section 2.2.2); it is near-source locations where there is the potential for concentrations at or near the current standard.

deteriorating, leaded paint. Further, some races or ethnic groups continue to demonstrate increased blood Pb levels relative to others, which may be related to these and other factors (ISA, sections 5.1, 5.2 and 5.4).

With regard to our understanding of the relationship between exposure or blood Pb levels in young children and neurocognitive effects, the PA notes that the evidence in this review, as in the last, does not establish a threshold blood Pb level for neurocognitive effects in young children (ISA, sections 1.9.4 and 4.3.12). The lowest blood Pb levels at which associations with neurocognitive impacts have been observed in pre-school and school age children continue to range down below 5 μg/dL, with the lowest group levels that have been associated with such effects ranging down to 2 μg/dL (ISA, sections 1.6.1 and 4.3.15.1). Additionally, as in the last review, there is evidence that the relationship of young children's blood Pb with neurocognitive impacts, such as IQ, is nonlinear across a wide range of blood Pb, with greater incremental impacts at lower versus higher blood Pb levels (ISA, sections 1.9.4 and 4.3.12). Accordingly, as in the last review, the PA focuses on C–R relationships from study groups with blood Pb levels closest to those in children in the U.S. today, which are generally lower than epidemiological study groups. The currently available evidence does not identify additional C–R slopes for study groups of young children (*e.g.,* ≤7 years) with mean blood Pb levels below that of groups identified in the last review, 2.9 − 3.8 μg/dL, as discussed in section II.B.3 above (ISA, section 4.3.12). Thus, the blood Pb concentration—IQ response functions or slopes identified in this review for epidemiological study groups of young children with mean blood Pb levels closest to that of children in the U.S. today include the same set recognized at the time of the last review (see Table 1 above), the median of which is 1.75 IQ points decrement per μg/dL blood Pb (73 FR 67003, November 12, 2008).

In considering the evidence with regard to the extent to which important uncertainties identified in the last review have been reduced or to which new uncertainties have emerged, as summarized in discussing the previous question and in section II.B above, the PA concludes that no new uncertainties were identified as emerging since the last review. However, the PA recognizes important uncertainties identified in the last review that remain today. Importantly, given our focus in this review, as in the last review, on neurocognitive impacts associated with Pb exposure in early childhood, the PA recognizes remaining uncertainties in our understanding of the C–R relationship of neurocognitive impacts, such as IQ decrements, with blood Pb level in young children, particularly across the range of blood Pb levels common in the U.S. today. With regard to C–R relationships for IQ, the evidence available in this review does not include studies that appreciably extend the range of blood Pb levels studied beyond those available in the last review. As in the last review, the early childhood (*e.g.,* 2 to 7 years of age) blood Pb levels for which associations with IQ response have been reported continue to extend at the low end of the range to study group mean blood Pb levels of 2.9 to 3.8 μg/dL (*e.g.,* 73 FR 67003, November 12, 2008, Table 3). The studies examining C–R relationships down to these blood Pb levels, as summarized in section II.B.3 above, continue to indicate higher C–R slopes in those groups with lower blood Pb levels than in study groups with higher blood Pb levels (ISA, section 4.3.12). The lack of studies considering C–R relationships for Pb effects on IQ at still lower blood Pb levels contributes to uncertainty regarding the quantitative relationship between blood Pb and IQ response in populations with mean blood Pb levels closer to the most recently available mean for children aged 1 to 5 years of age (*e.g.,* 1.17 μg/dL in 2009–2010 [ISA, p. 3–85]).

Further, the PA recognizes important uncertainties in our understanding of the relationship between ambient air Pb concentrations and air-related Pb in children's blood. The evidence newly available in this review has not reduced such key uncertainties. As in the last review, air-to-blood ratios based on the available evidence continue to vary, with our conclusions based on the current evidence generally consistent with the range of 1:5 to 1:10 given emphasis in the last review (73 FR 67002, November 12, 2008; ISA, section 3.7.4). There continues to be uncertainty regarding the extent to which this range represents the relationship between ambient air Pb and Pb in children's blood (derived from the full set of air-related exposure pathways) and with regard to its reflection of exposures associated with ambient air Pb levels common in the U.S. today and to circumstances reflecting just meeting the current Pb standard (ISA, section 3.7.4). The PA additionally notes the significant uncertainty remaining with regard to the temporal relationships of ambient Pb levels and associated exposure with occurrence of a health effect (73 FR 67005, November 12, 2008).

In integrating consideration of the prior two questions with a focus on the standard, the PA then addresses the question regarding the extent to which newly available information supports or calls into question any of the basic elements of the current Pb standard. The PA addresses this question for each of the elements of the standard in light of the health effects evidence and other relevant information available in this review (and summarized in sections II.B and II.C above). As an initial matter, the PA recognizes the weight of the scientific evidence available in this review that continues to support our focus on effects on the nervous system of young children, specifically neurocognitive decrements, as the most sensitive endpoint. Consistent with the evidence available in the last review, the currently available evidence continues to indicate that a standard that provides requisite public health protection against the occurrence of such effects in at-risk populations would also provide the requisite public health protection against the full array of health effects of Pb. Accordingly, the discussion of the elements below is framed by that background.

Indicator

The indicator for the current Pb standard is Pb-TSP. Key considerations in retaining this indicator in the last review are summarized in section II.A.1. Exposure to Pb in all sizes of particles passing through ambient air can contribute to Pb in blood and associated health effects by a wide array of exposure pathways (ISA, section 3.1). These pathways include the ingestion route, as well as inhalation (ISA, section 3.1), and a wide array of particle sizes play a role in these pathways (ISA, section 3.1.1.1). As at the time of the last review, the PA recognizes the variability of the Pb-TSP FRM in its capture of airborne Pb particles (as discussed in section 2.2.1.3.1 of the PA). As in the last review, the PA also notes that an alternative approach for collection of a conceptually comparable range of particle sizes, including ultra-coarse particles, is not yet available. Additionally, the limited available information regarding relationships between Pb-TSP and Pb in other size fractions indicates appreciable variation in this relationship, particularly near sources of Pb emissions where concentrations and potential exposures are greatest. Thus, the PA concludes that the information available in this review does not address previously

identified limitations and uncertainties for the current indicator. Nor does the newly available information identify additional limitations or uncertainties.

The PA notes that the evidence available in this review continues to indicate the role of a range of air Pb particle sizes in contributing to Pb exposure (*e.g.,* ISA, section 3.1.1.1) that contributes to Pb in blood and associated health effects. For example, the evidence indicates larger particle sizes for Pb that occurs in soil and house dust and may be ingested as compared to Pb particles commonly occurring in the atmosphere and the size fraction of the latter that may be inhaled (ISA, section 3.1.1.1). Taken together, the PA concludes that the evidence currently available reinforces the appropriateness of an indicator for the Pb standard that reflects a wide range of airborne Pb particles.

Averaging Time and Form

The averaging time and form of the standard were revised in the last Pb NAAQS review, based on considerations summarized in section II.A.1 above. The current standard is a not-to-be-exceeded rolling 3-month average (40 CFR 50.16), derived from three monthly averages calculated in accordance with the current data handling procedures (40 CFR part 50, Appendix R). The form is a maximum, evaluated within a 3-year period (40 CFR 50.16). As at the time of the last review, the PA notes that evidence continues to support the importance of periods on the order of 3 months and the prominent role of deposition-related exposure pathways, with uncertainty associated with characterization of precise time periods associating ambient air Pb with air-related health effects. The PA concludes that relevant factors continue to be those pertaining to the human physiological response to changes in Pb exposures and those pertaining to the response of air-related Pb exposure pathways to changes in airborne Pb. The PA concludes that the newly available evidence in this review does not appreciably improve our understanding of the period of time in which air Pb concentrations would lead to the health effects most at issue in this review (PA, section 4.2.1). Newly available evidence accordingly also does not appreciably improve our understanding of the period of time for which control of air Pb concentrations would protect against exposures most pertinent to the health effects most at issue in this review. Thus, while there continue to be limitations in the evidence to inform our consideration of these elements of the standard and associated uncertainty, the available evidence continues to provide support for the decisions made in the last review regarding these elements of the current Pb standard.

Level

The level of the current standard is 0.15 μg/m^3 (40 CFR 50.16). As described in section II.A.1 above, this level was selected in 2008 with consideration of, among other factors, an evidence-based air-related IQ loss framework, for which there are two primary inputs: Air-to-blood ratios and C–R functions for blood Pb–IQ response in young children. Additionally taken into consideration were the uncertainties inherent in these inputs.[65] Application of the framework also entailed consideration of a magnitude of air-related IQ loss, which as further described in section II.A.1 above, is used in conjunction with this specific framework in light of the framework context, limitations and uncertainties. Additionally, selection of a level for the standard in 2008 was made in conjunction with decisions on indicator, averaging time and form.

As an initial matter, the PA considers the extent to which the evidence-based, air-related IQ loss framework which informed the Administrator's decision in the last review is supported by the currently available evidence and information. In so doing, the PA recognizes the support provided by the currently available evidence for the key conclusions drawn in the last review with regard to health effects of greatest concern, at-risk populations, the influence of Pb in ambient air on Pb in children's blood and the association between children's blood Pb and decrements in neurocognitive function (*e.g.,* IQ). The PA additionally notes the complexity associated with interpreting the scientific evidence with regard to specific levels of Pb in ambient air, given the focus of the evidence on blood Pb as the key biomarker of children's aggregate exposure. The need to make such interpretations in the face of the associated complexity supported use of the evidence-based framework in the last review. In considering the currently available evidence for the same purposes in this review, the PA concludes that the evidence-based framework continues to provide a useful tool for consideration of the evidence with regard to the level of the standard.

The PA next turned to consideration of the primary inputs to the framework: Air-to-blood ratios and C–R functions for blood Pb–IQ response in young children. With regard to the former, the PA concludes the limited newly available information assessed in the ISA, and discussed in section II.C above, to be generally consistent with the information in this area that was available at the time of the last review. The PA additionally recognizes the variability and uncertainty associated with quantitative air-to-blood ratios based on this information, as also existed in the last review. As in the last review, factors contributing to the variability and uncertainty of these estimates are varied and include aspects of the study populations (*e.g.,* age and Pb exposure pathways) and the study circumstances (*e.g.,* length of study period and variations in sources of Pb exposure during the study period). The PA notes that the full range of estimates associated with the available evidence is wide and considers it appropriate to give emphasis to estimates pertaining to circumstances closest to those in the U.S. today with regard to ambient air Pb and children's blood Pb concentrations, while recognizing the limitations associated with the available information. With that in mind, the PA considers the currently available evidence to continue to support the range of estimates for air-to-blood ratios concluded in the last review to be most appropriate for the current population of young children in the U.S., in light of the multiple air-related exposure pathways by which children are exposed and of the levels of air and blood Pb common today. Identification of this range also included consideration of the limitations associated with the available information and inherent uncertainties. This range of air-to-blood ratios included 1:10 at the upper end and 1:5 at the lower end. The PA further recognizes that the limited evidence for air Pb and children's blood Pb concentrations closest to those in U.S. today continues to provide support for the Administrator's emphasis in the 2008 decision on the relatively central estimate of 1:7.

With regard to the second input to the evidence-based framework, C–R functions for the relationship of young children's blood Pb with neurocognitive impacts (*e.g.,* IQ decrements), the PA considers several aspects of the evidence. First, as discussed in section II.B.3 above, the currently available information continues to provide evidence that this C–R relationship is nonlinear across the range of blood Pb levels from the higher concentrations

[65] As discussed further below, the Administrator also considered the exposure/risk-based information, which he found to be roughly consistent and generally supportive of the framework estimates (73 FR 67004).

more prevalent in the past to lower concentrations more common today. Thus, the PA continues to consider it particularly appropriate to focus on the evidence from studies with blood Pb levels closest to those of today's population which, as in the last review, includes studies with study group mean blood Pb levels ranging roughly from 3 to 4 μg/dL in children aged 24 months to 7 years (PA, Table 3–3). As discussed in section II.B.3 above, this is also consistent with the evidence currently available for this age group of young children, which does not include additional C–R slopes for incremental neurocognitive decrement with blood Pb levels at or below this range. In considering whether this set of functions continues to be well supported by the evidence, as assessed in the ISA (ISA, section 4.3.2), the PA notes the somewhat wide range in slopes encompassed by these study groups, while also noting the stability of the median. For example, omission of any of the four slopes considered in the last review does not appreciably change the median (*e.g.,* the median would change from −1.75 IQ points per μg/dL blood Pb to −1.71 or −1.79). Thus, while differing judgments might be made with regard to inclusion of each of the four study groups, these estimates are generally supported by the current review of the evidence in the ISA. Further, the stability of the median to modifications to this limited dataset lead the PA to conclude that the currently available evidence continues to support consideration of −1.75 IQ points per μg/dL blood Pb as a well-founded and stable estimate for purposes of describing the neurocognitive impact quantitatively on this age group of U.S. children.

In summary, in considering the evidence and information available in this review pertaining to the level of the current Pb standard, the PA notes that the evidence available in this review, as summarized in the ISA, continues to support the air-related IQ loss evidence-based framework, with the inputs that were used in the last review. These include estimates of air-to-blood ratios ranging from 1:5 to 1:10, with a generally central estimate of 1:7. Additionally, the C–R functions most relevant to blood Pb levels in U.S. children today continue to be provided by the set of four analyses considered in the last review for which the median estimate is −1.75 IQ points per μg/dL Pb in young children's blood. Thus, the PA observed that the evidence available in this review has changed little if at all with regard to the aspects given weight in the conclusion on level for the new standard in the last review and would not appear to call into question any of the basic elements of the standard. In so doing, the PA additionally recognizes that the overall decision on adequacy of the current standard is a public health policy judgment by the Administrator.

2. Exposure/Risk-Based Considerations in the Policy Assessment

In consideration of the issue of adequacy of public health protection provided by the current standard, the PA also considered the quantitative exposure/risk assessment completed in the last review, augmented as described in section II.C above. The PA recognizes substantial uncertainty inherent in the REA estimates of air-related risk associated with localized conditions just meeting the current standard, which we have characterized as approximate and falling within rough bounds.[66] This approximate estimate of risk for children living in such areas is generally overlapping with and consistent with the evidence-based air-related IQ loss estimates described in section II.A.1 above. The PA discussion with regard to interpretation of the exposure/risk information for air quality conditions associated with just meeting the current standard is organized around two questions, as summarized here (PA, section 4.2.2).

In considering the level of confidence associated with estimates of air-related risk generated for simulations just meeting the current Pb standard, the PA recognizes, as an initial matter, the significant limitations and complexity associated with the risk and exposure assessments for Pb that are far beyond those associated with similar assessments typically performed for other criteria pollutants. In completing the assessment, we were constrained by significant limitations with regard to data and tools particular to the problem at hand. Further, the multimedia and persistent nature of Pb and the role of multiple exposure pathways contribute significant additional complexity to the assessment as compared to other assessments that focus only on the inhalation pathway. As a result, the estimates of air-related exposure and risk are approximate, presented as upper and lower bounds within which we consider air-related risk likely to fall. The description of overall confidence in this characterization of air-related risk is based on consideration of the overall design of the analysis (summarized in section II.D), the degree to which key sources of variability are reflected in the design of the analysis (summarized in section II.D.3), and our characterization of key sources of uncertainty (summarized in section II.D.3).

With regard to key sources of uncertainty, the PA notes particularly those affecting the precision of the air-related risk estimates. Associated sources of uncertainty include the inability to simulate changes in air-related Pb as a function of changes in ambient air Pb in exposure pathways other than those involving inhalation of ambient air and ingestion of indoor dust. This contributes to the positive bias of the upper bound for the air-related risk estimates. The PA additionally recognizes the significant uncertainty associated with estimating upper percentiles of the distribution of *air-related* blood Pb concentration estimates (and associated IQ loss estimates) due to limitations in available information. Lastly, the PA recognizes the uncertainty associated with application of the C–R function at the lower blood Pb levels in the distribution; this relates to the limited representation of blood Pb levels of this magnitude in the dataset from which the C–R function is derived (PA, section 4.2.2).

In the quantitative risk information available in this review, we have air-related risk estimates for simulations just meeting the current standard from one of the location-specific urban case studies (Chicago) and from the generalized (local) urban case study. With regard to the latter, the PA notes its simplified design that does not include multiple exposure zones; thus reducing the dimensions simulated. The PA concludes a reasonable degree of confidence in aspects of the generalized (local) urban case study for the specific situation we consider it to represent (*i.e.,* a temporal pattern of air Pb concentrations that just meets the level of the standard), and when the associated estimates are characterized as approximate, within upper and lower bounds (as described above), while also recognizing considerable associated uncertainty.

In considering the extent to which the estimated air-related risks remaining upon just meeting the current Pb standard are important from a public health perspective, the PA considers the nature and magnitude of such estimated risks (and attendant uncertainties), including such impacts on the affected

[66] We note that the value of the upper bound is influenced by risk associated with exposure pathways that were not varied with alternative standard levels, a modeling limitation with the potential to contribute to overestimation of the upper bound with air quality scenarios involving air Pb levels below current conditions for the study area (see sections 3.4.4 and 3.4.7 above).

population, and additionally considers the size of the affected population. In considering the quantitative risk estimates for decrements in IQ, we recognize that although some neurocognitive effects may be transient, some effects may persist into adulthood, affecting success later in life (ISA, sections 1.9.5 and 4.3.14). The PA additionally recognizes the potential population impacts of small changes in population mean values of metrics such as IQ, presuming a uniform manifestation of Pb-related decrement across the range of population IQ (ISA, section 1.9.1; PA, section 3.3).

As summarized in sections II.D above, limitations in modeling tools and data affected our ability to develop precise risk estimates for air-related Pb exposure pathways and contributed uncertainties to the risk estimates. The results are approximate estimates which we describe through the use of rough upper and lower bounds within which we estimate air-related risk to fall. We have recognized a number of uncertainties in the underlying risk estimates from the 2007 REA and in the interpolation approach employed in the new analyses for this review. We have characterized the magnitude of air-related risk associated with the current standard with a focus on median estimates, for which we have appreciably greater confidence than estimates for outer ends of risk distribution (see section 3.4.7 of the PA) and on risks derived using the C–R function in which we have greatest confidence (see sections 3.4.3.3.1 and 3.4.7 of the PA). These risk estimates include estimates from the last review for one of the location-specific urban study area populations as well as estimates newly derived in this review based on interpolation from 2007 REA results for the generalized (local) urban case study, which is recognized to reflect a generalized high end of air-related exposure for localized populations. Taken together, these results for just meeting the current standard include a high-end localized risk estimate for air-related Pb of a magnitude falling within general rough bounds of 1 and 3 points IQ loss, with attendant uncertainties, and with appreciably lower risks with increasing distance from the highest exposure locations.

In considering the importance of such risk from a public health perspective, the PA also considers the size of at-risk populations represented by the REA case studies. As summarized in section II.D.1 above (and described more fully in the PA, section 3.4), the generalized (local) urban case study is considered to represent a localized urban population exposed near the level of the standard, such as a very small, compact neighborhood near a source contributing to air Pb concentrations just meeting the standard. This case study provides representation in the risk assessment for such small populations at the upper end of the gradient in ambient air concentrations expected to occur near sources; thus estimates for this case study reflect exposures nearest the standard being evaluated. While we do not have precise estimates of the number of young children living in such areas of the U.S. today, we have information that informs our understanding of their magnitude. For example, as summarized in section II.B.5 above, the PA estimates some 2,700 children, aged 5 years and younger, to be living in localized areas with elevated air Pb concentrations that are above or near the current standard. Based on the 2010 census estimates of approximately 24.3 million children in the U.S. aged 5 years or younger, this indicates the size of the population of young children of this age living in areas in close proximity to areas where air Pb concentrations may be above or near the current standard to be generally on the order of a hundredth of a percent of the full population of correspondingly aged children.[67] [68] While these estimates pertain to the age group of children aged 5 years and younger, the PA additionally notes that a focus on an alternative age range (*e.g.,* through age 7), while increasing the number for children living in such locations, would not be expected to appreciably change the percentage of the full U.S. age group that the subset represents.

3. CASAC Advice

In the current review of the primary standard for Pb, the CASAC has provided advice and recommendations in their review of drafts of the ISA, of the REA Planning Document, and of the draft PA. We have additionally received comments from the public on drafts of these documents.[69]

In their comments on the draft PA, the CASAC concurred with staff's overall preliminary conclusions that it is appropriate to consider retaining the current primary standard without revision, stating that ''the current scientific literature does not support a revision to the Primary Lead (Pb) National Ambient Air Quality Standard (NAAQS)'' (Frey, 2013b). They further noted that ''[a]lthough the current review incorporates a substantial body of new scientific literature, the new literature does not justify a revision to the standards because it does not significantly reduce substantial data gaps and uncertainties (*e.g.,* air-blood Pb relationship at low levels; sources contributing to current population blood Pb levels, especially in children; the relationship between Pb and childhood neurocognitive function at current population exposure levels; the relationship between ambient air Pb and outdoor dust and surface soil Pb concentrations).'' In recognition of these limitations in the available information, the CASAC provided recommendations on research to address these data gaps and uncertainties so as to inform future Pb NAAQS reviews (Frey, 2013b).

The CASAC comments indicated agreements with key aspects of staff's consideration of the exposure/risk information and currently available evidence in this review (Frey, 2013b, Consensus Response to Charge Questions, p. 7).

The use of exposure/risk information from the previous Pb NAAQS review appears appropriate given the absence of significant new information that could fundamentally change the interpretation of the exposure/risk information. This interpretation is reasonable given that information supporting the current standard is largely unchanged since the current standard was issued.

The CASAC agrees that the adverse impact of low levels of Pb exposure on neurocognitive function and development in children remains the most sensitive health endpoint, and that a primary Pb NAAQS designed to protect against that effect will offer satisfactory protection against the many other health impacts associated with Pb exposure.

The CASAC concurs with the draft PA that the scientific findings pertaining to air-to-blood Pb ratios and the C–R relationships between blood Pb and childhood IQ decrements that formed the basis of the current Pb NAAQS remain valid and are consistent with current data.

[67] The areas included in this estimate where the standard is currently exceeded are treated, for present purposes, as areas with air Pb concentrations just meeting the current standard and are included for purposes of this analysis (PA, pp. 3–36 to 3–38). This is in light of the requirement for areas not in attainment with the standard to attain the standard as expeditiously as practicable, but no later than 5 years after designation.

[68] A second PA analysis, performed in recognition of the potential for the first analysis to under-represent sites with elevated Pb concentrations, but with its own attendant uncertainties, indicates the potential for the population group in such areas to be only slightly larger, in terms of hundredths of a percent of the full population of children in this age group (PA, pp. 3–36 to 3–38, 4–25, 4–32).

[69] As noted in section II.E.3 above, written comments submitted to the agency, as well as transcripts and minutes of the public meetings held in conjunction with CASAC's reviews of documents for the review will be available in the docket for this rulemaking.

The CASAC concurred with the appropriateness of the application of the evidence-based framework from the last Pb NAAQS review. With regard to the key inputs to that framework, CASAC concluded that ''[t]he new literature published since the previous review provides further support for the health effect conclusions presented in that review'' and that the studies newly available in this review ''do not fundamentally alter the uncertainties for air-to-blood ratios or C–R functions for IQ decrements in young children'' (Frey, 2013b, Consensus Response to Charge Questions, p. 6).

The comments from CASAC also took note of the uncertainties that remain in this review, which contribute to the uncertainties associated with drawing conclusions regarding air-related exposures and associated health risk at or below the level of the current standard, stating their agreement with ''the EPA conclusion that 'there is appreciable uncertainty associated with drawing conclusions regarding whether there would be reductions in blood Pb levels from alternative lower levels as compared to the level of the current standard' '' (Frey, 2013b, Consensus Response to Charge Questions, p. 6).

Of the limited public comments received on this review to date that have addressed adequacy of the current primary Pb standard, all but one state support for retaining the current standard without revision, citing uncertainties in the available evidence and risk information. The other commenter expressed the view that the standard should be revised to be more restrictive given the evidence of Pb effects in populations with mean blood Pb levels below 10 μg/dL.

4. Administrator's Proposed Conclusions on the Adequacy of the Current Primary Standard

Based on the large body of evidence concerning the health effects and potential public health impacts of exposure to Pb emitted into ambient air, and taking into consideration the attendant uncertainties and limitations of the evidence, the Administrator proposes to conclude that the current primary standard provides the requisite protection of public health, with an adequate margin of safety and should be retained.

In considering the adequacy of the current standard, the Administrator has carefully considered the assessment of the available evidence and conclusions contained in the ISA; the technical information, including exposure/risk information, staff conclusions, and associated rationale, presented in the PA; the advice and recommendations from CASAC; and public comments to date in this review. In the discussion below, the Administrator gives weight to the PA conclusions, with which CASAC has concurred, and takes note of key aspects of the rationale presented for those conclusions which contribute to her proposed decision.

As an initial matter, the Administrator takes note of the PA discussion with regard to the complexity involved in considering the adequacy of protection in the case of the primary Pb standard, which differs substantially from that involved in consideration of the primary NAAQS for other pollutants, for which the limited focus on the inhalation pathway is a relatively simpler context. Additionally, while an important component of the evidence base for most other NAAQS pollutants is the availability of studies that have investigated an association between current concentrations of the pollutant in ambient air and the occurrence of health effects plausibly related to ambient air exposure to that pollutant, the evidence base that supports conclusions in this review of the Pb NAAQS includes most prominently epidemiological studies focused on associations of blood Pb levels in U.S. populations with health effects plausibly related to Pb exposures. Support for conclusions regarding the plausibility for ambient air Pb to play a role in such findings derives, in part, from studies linking Pb in ambient air with the occurrence of health effects. However, such studies (dating from the past or from other countries) involve ambient air Pb concentrations many times greater than those that would meet the current standard. Thus, in considering the adequacy of the current Pb standard, rather than considering studies that have directly investigated current concentrations of Pb in ambient air (including in locations where the current standard is met) and the occurrence of health effects, we primarily consider the evidence for, and risk estimated from, models, based upon key relationships, such as those among ambient air Pb, Pb exposure, blood Pb and health effects. This evidence, with its associated limitations and uncertainties, contributes to the EPA's conclusions regarding a relationship between ambient air Pb conditions under the current standard and health effects.

With regard to the current evidence, the Administrator first takes note of the well-established body of evidence on the health effects of Pb, augmented in some aspects since the last review, which continues to support identification of neurocognitive effects in young children as the most sensitive endpoint associated with Pb exposure. The evidence, as summarized in the PA and discussed in detail in the ISA, continues to indicate that a standard that provides protection from neurocognitive effects in young children additionally provides protection for other health effects of Pb, such as those reported in adult populations. The Administrator takes note of the PA finding that application of the evidence-based, air-related IQ loss framework, developed in the last review, continues to provide a useful approach for considering and integrating the evidence on relationships between Pb in ambient air and Pb in children's blood and risks of neurocognitive effects (for which IQ loss is used as an indicator). She additionally takes note of the PA finding (described in section II.E.1 above) that the currently available evidence base, while somewhat expanded since the last review, is not appreciably expanded or supportive of appreciably different conclusions with regard to air-to-blood ratios or C–R functions for neurocognitive decrements in young children. She concurs with the PA findings, summarized in section II.E.1 above, that application of this framework, in light of the current evidence and exposure/risk information, continues to support a standard as protective as the current standard.

In considering the nature and magnitude of the array of uncertainties that are inherent in the scientific evidence and analyses, the Administrator recognizes that our understanding of the relationships between the presence of a pollutant in ambient air and associated health effects is based on a broad body of information encompassing not only more established aspects of the evidence, but also aspects in which there may be substantial uncertainty. In the case of the Pb NAAQS review, she takes note of the recognition in the PA of increased uncertainty in characterizing the relationship of effects on IQ with blood Pb levels below those represented in the evidence base and in projecting the magnitude of blood Pb response to ambient air Pb concentrations at and below the level of the current standard. The PA recognizes this increased uncertainty, particularly in light of the multiple factors that play a role in such a projection (*e.g.,* meteorology, atmospheric dispersion and deposition, human physiology and behavior), each of which carry attendant uncertainties. The Administrator recognizes that collectively, these aspects of the

evidence and associated uncertainties contribute to a recognition that for Pb, as for other pollutants, the available health effects evidence generally reflects a continuum, consisting of levels at which scientists generally agree that health effects are likely to occur, through lower levels at which the likelihood and magnitude of the response become increasingly uncertain.

In making a judgment on the point at which health effects associated with Pb become important from a public health perspective, the Administrator has considered the public health significance of a decrement of a very small number of IQ points in the at-risk population of young children, in light of associated uncertainties. She notes that her judgment on this matter relates to her consideration of the IQ loss estimates yielded by the air-related IQ loss evidence-based framework for specific combinations of standard level, air-to-blood ratio and C–R function. In considering the public health significance of IQ loss estimates in young children, the Administrator gives weight to the comments of CASAC and some public commenters in the last review which recognized a population mean IQ loss of 1 to 2 points to be of public health significance and recommended that a very high percentage of the population be protected from such a magnitude of IQ loss (73 FR 67000, November 12, 2008). In so doing, the Administrator additionally notes that the EPA is aware of no new information or new commonly accepted guidelines or criteria within the public health community for interpreting public health significance of neurocognitive effects in the context of a decision on adequacy of the current Pb standard (PA, pp. 4–33 to 4–34).

With the objective identified by CASAC in the 2008 review in mind, the Administrator considers the role of the air-related IQ loss evidence-based framework in informing consideration of standards that might be concluded to provide such a level of protection. In so doing, she first recognizes, like the Administrator at the time of the last review, that the IQ loss estimates produced with the evidence-based framework do not correspond to a specific quantitative public health policy goal for air-related IQ loss that would be acceptable or unacceptable for the entire population of children in the U.S. Rather, the conceptual context for the evidence-based framework is that it provides estimates for the mean air-related IQ loss of a subset of the population of U.S. children (*i.e.,* the subset living in close proximity to air Pb sources that contributed to elevated air Pb concentrations that equal the current level of the standard). This is the subset expected to experience air-related Pb exposures at the high end of the national distribution of such exposures. The associated mean IQ loss estimate is the average for this highly exposed subset and is not the average air-related IQ loss projected for the entire U.S. population of children. Further, the Administrator recognizes uncertainties associated with those estimates, and notes the PA conclusion that the uncertainties increase with estimates associated with successively lower standard levels. The Administrator additionally takes note of the PA estimates for the size of such a population, drawn from information on numbers of young children (aged 5 years or younger) living near monitors registering ambient Pb concentrations above or within 10 percent of the NAAQS, which indicate it to be on the order of one hundredth of one percent of the U.S. population of children of this age, with an upper bound of approximately four hundredths of one percent, drawn from similar demographic information based on proximity to large Pb sources, as identified using the NEI (PA, pp. 3–36 to 3–38). In summary, the current evidence, as considered within the conceptual and quantitative context of the evidence-based framework, and current air monitoring information indicates that the current standard would be expected to satisfy the public health policy goal recommended by CASAC in the last Pb NAAQS review, and CASAC did not provide a different goal in the present review. Thus, the evidence indicates that the current standard provides protection for young children from neurocognitive impacts, including IQ loss, consistent with advice from CASAC regarding IQ loss of public health significance.

In drawing conclusions from application of the evidence-based framework with regard to adequacy of the current standard, the Administrator further recognizes the degree to which IQ loss estimates drawn from the air-related IQ loss evidence-based framework reflect mean blood Pb levels that are below those represented in the currently available evidence for young children. For example, in the case of the current standard level of 0.15 μg/m^3, multiplication by the air-to-blood ratio of 1:7, the value that was the focus of the last review and which the evidence continues to support in this review, yields a mean air-related blood Pb level of 1.05 μg/dL. This blood Pb level is half the level of the lowest blood Pb subgroup of pre-school children in which neurocognitive effects have been observed (PA, Table 3–2; Miranda et al., 2009) and well below the means of subgroups for which continuous C–R functions have been estimated (Table 1 above). The Administrator views such an extension below the lowest studied levels to be reasonable given the lack of identified blood Pb level threshold in the current evidence base for neurocognitive effects and the need for the NAAQS to provide a margin of safety. She takes note, however, of the PA finding that the framework IQ loss estimates for standard levels lower than the current standard level represent still greater extrapolations from the current evidence base with corresponding increased uncertainty (PA, section 3.2, pp. 4–32 to 4–33).

In considering application of the evidence-based framework in this review with regard to the extent there is support within the evidence for a standard with greater protection, the Administrator additionally takes note of the uncertainties that remain in our understanding of important aspects of ambient air Pb exposure and associated health effects, as discussed in the PA (PA, Chapter 3) and summarized in sections II.B and II.C above. With regard to the air-to-blood ratios that reflect the relationship between concentrations of Pb in ambient air and air-related Pb in children's blood, she particularly notes the limitations and uncertainties identified in the ISA and PA with regard to the available studies and the gaps and uncertainties in the evidence base. These include gaps and uncertainties with regard to studies that have investigated such quantitative relationships under conditions pertaining to the current standard (*e.g.,* in localized areas near air Pb sources where the standard is just met in the U.S. today), as well as with regard to evidence to inform our understanding of the quantitative aspects of relationships between ambient air Pb and outdoor soil/dust Pb and indoor dust Pb. These critical exposure pathways are also represented in the evidence-based air-related IQ loss framework within the estimates of air-to-blood ratios. In light of these uncertainties and limitations in the evidence base, the Administrator gives weight to the PA conclusion of greater uncertainty with regard to relationships between concentrations of Pb in ambient air and air-related Pb in children's blood, and with regard to estimates of the slope of the C–R function of neurocognitive impacts (IQ loss) for application of the framework to

levels below the current standard, given the weaker linkage with existing evidence as discussed in the PA (PA, sections 3.1, 3.2 and 4.2.1).

With respect to exposure/risk-based considerations, as in the last review, the Administrator notes the complexity of the REA modeling analyses and the associated limitations and uncertainties. Based on consideration of the risk-related information for conditions just meeting the current standard, the Administrator takes note of the attendant uncertainties, discussed in detail in the PA (PA, sections 3.4 and 4.2.2), while finding that the quantitative risk estimates, with a focus on those for the generalized (local) urban case study, are ''roughly consistent with and generally supportive'' of estimates from the evidence-based air-related IQ loss framework. She further takes note of the PA finding of increasing uncertainty for air quality scenarios involving air Pb concentrations increasingly below the current conditions for each case study, due in part to modeling limitations that derive from uncertainty regarding relationships between ambient air Pb and outdoor soil/dust Pb and indoor dust Pb (PA, sections 3.4.3.1 and 3.4.7).

Based on the above considerations and with consideration of advice from CASAC, the Administrator reaches the conclusion that the current body of evidence, in combination with the exposure/risk information, supports a primary standard as protective as the current standard. Based on consideration of the evidence and exposure/risk information available in this review with its attendant uncertainties and limitations and information that might inform public health policy judgments, as well as advice from CASAC, including their concurrence with the PA conclusions that revision of the primary Pb standard is not warranted at this time, the Administrator further concludes that it is appropriate to consider retaining the current standard without revision.

The Administrator bases these proposed conclusions on consideration of the health effects evidence, including consideration of this evidence in the context of the evidence-based, air-related IQ loss framework, and with support from the exposure/risk information, recognizing the uncertainties attendant with both. In so doing, she takes note of the PA description of the complexities and limitations in the evidence base associated with reaching conclusions regarding the magnitude of risk associated with the current standard, as well as the increasing uncertainty of risk estimates for lower air Pb concentrations. Inherent in the Administrator's conclusions are public health policy judgments on the public health implications of the blood Pb levels and risk estimated for air-related Pb under the current standard, including the public health significance of the Pb effects being considered, as well as aspects of the use of the evidence-based framework that may be considered to contribute to the margin of safety. These public health policy judgments include judgments related to the appropriate degree of public health protection that should be afforded to protect against risk of neurocognitive effects in at-risk populations, such as IQ loss in young children, as well as with regard to the appropriate weight to be given to differing aspects of the evidence and exposure/risk information, and how to consider their associated uncertainties. Based on these considerations and the judgments identified here, the Administrator concludes that the current standard provides the requisite protection of public health with an adequate margin of safety, including protection of at-risk populations, such as young children living near Pb emissions sources where ambient concentrations just meet the standard.

In reaching this conclusion with regard to the adequacy of public health protection afforded by the existing primary standard, the Administrator recognizes that in establishing primary standards under the Act that are requisite to protect public health with an adequate margin of safety, she is seeking to establish standards that are neither more nor less stringent than necessary for this purpose. The Act does not require that primary standards be set at a zero-risk level, but rather at a level that avoids unacceptable risks to public health, even if the risk is not precisely identified as to nature or degree. The CAA requirement that primary standards provide an adequate margin of safety was intended to address uncertainties associated with inconclusive scientific and technical information available at the time of standard setting, as described in section I.A above. This requirement was also intended to provide a reasonable degree of protection from hazards that research has not yet identified.

In this context, the Administrator's proposed conclusion that the current standard provides the requisite protection and that a more restrictive standard would not be requisite additionally recognizes that the uncertainties and limitations associated with the many aspects of the estimated relationships between air Pb concentrations and blood Pb levels and associated health effects are amplified with consideration of increasingly lower air concentrations. In so doing, she takes note of the PA conclusion, with which CASAC has agreed, that based on the current evidence, there is appreciable uncertainty associated with drawing conclusions regarding whether there would be reductions in blood Pb levels and risk to public health from alternative lower levels of the standard as compared to the level of the current standard (PA, pp. 4–35 to 4–36; Frey, 2013b, p. 6). The Administrator judges this uncertainty to be too great for the current evidence and exposure/risk information to provide a basis for revising the current standard. Thus, based on the public health policy judgments described above, including the weight given to uncertainties in the evidence, the Administrator proposes to conclude that the current standard should be retained, without revision. The Administrator solicits comment on this conclusion.

III. Rationale for Proposed Decision on the Secondary Standard

This section presents information relevant to the rationale for the Administrator's proposed decision to retain the existing secondary Pb standard, which as discussed more fully below, is based on a thorough review in the ISA of the latest scientific information, generally published through September 2011,[70] on ecological or welfare effects associated with Pb and pertaining to the presence of Pb in the ambient air. This proposal also takes into account: (1) The PA's staff assessments of the most policy-relevant information in the ISA and staff analyses of potential ecological exposures and risk, upon which staff conclusions regarding appropriate considerations in this review are based; (2) CASAC advice and recommendations, as reflected in discussions of drafts of the ISA and PA at public meetings, in separate written comments, and in CASAC's letters to the Administrator; and (3) public comments received during the development of these documents, either in connection with CASAC meetings or separately.

[70] In addition to the review's opening ''call for information'' (75 FR 8934), ''literature searches were conducted routinely to identify studies published since the last review, focusing on studies published from 2006 (close of the previous scientific assessment) through September 2011'' and references ''that were considered for inclusion or actually cited in this ISA can be found at *http://hero.epa.gov/lead*'' (ISA, p. 1–2).

Section III.A provides background on the general approach for review of the secondary NAAQS for Pb, including a summary of the approach used in the last review (section III.A.1) and the general approach for the current review (section III.A.2). Section III.B summarizes the body of evidence on ecological or welfare effects associated with Pb exposures, focusing on consideration of key policy-relevant questions, and section III.C summarizes the exposure/risk information in this review. Section III.D presents the Administrator's proposed conclusions on adequacy of the current standard, drawing on both evidence-based and exposure/risk-based considerations (sections III.D.1), and advice from CASAC (section III.D.2).

A. General Approach

The past and current approaches described below are all based most fundamentally on using the EPA's assessment of the current scientific evidence and previous quantitative analyses to inform the Administrator's judgment with regard to the secondary standard for Pb. In drawing conclusions for the Administrator's consideration with regard to the secondary standard, we note that the final decision on the adequacy of the current secondary Pb standard is largely a public welfare policy judgment to be made by the Administrator. The Administrator's final decision must draw upon scientific information and analyses about welfare effects, exposure and risks, as well as judgments about the appropriate response to the range of uncertainties that are inherent in the scientific evidence and analyses. This approach is consistent with the requirements of the NAAQS provisions of the Act. These provisions require the Administrator to establish a secondary standard that, in the judgment of the Administrator, is ''requisite to protect the public welfare from any known or anticipated adverse effects associated with the presence of the pollutant in the ambient air.'' In so doing, the Administrator seeks to establish standards that are neither more nor less stringent than necessary for this purpose.

1. Approach in the Last Review

In the last review, completed in 2008, the current secondary standard for Pb was set equal to the primary standard (73 FR 66964, November 12, 2008). As summarized in sections I.C and II.A.1 above, the primary standard was substantially revised in the last review. The 2008 decision considered the body of evidence as assessed in the 2006 CD (USEPA, 2006a) as well as the 2007 Staff Paper assessment of the policy-relevant information contained in the 2006 CD and the screening-level ecological risk assessment (2006 REA; USEPA, 2007b), the advice and recommendations of CASAC (Henderson 2007a, 2007b, 2008a, 2008b), and public comment.

In the previous review, the Staff Paper concluded, based on laboratory studies and current media concentrations in a wide range of locations, that it seemed likely that adverse effects were occurring from ambient air-related Pb, particularly near point sources, under the then-current standard (73 FR 67010, November 12, 2008). Given the limited data on Pb effects in ecosystems, and associated uncertainties, such as those with regard to factors such as the presence of multiple metals and historic environmental burdens, it was at the time, as it is now, necessary to look at evidence of Pb effects on organisms and extrapolate to ecosystem effects. Taking into account the available evidence and current media concentrations in a wide range of locations, the Administrator concluded that there was potential for adverse effects occurring under the then-current standard; however there were insufficient data to provide a quantitative basis for setting a secondary standard different from the primary (73 FR 67011, November 12, 2008). Therefore, citing a general lack of data that would indicate the appropriate level of Pb in environmental media that may be associated with adverse effects, as well as the comments of the CASAC Pb panel that a significant change to current air concentrations (*e.g.,* via a significant change to the standard) was likely to have significant beneficial effects on the magnitude of Pb exposures in the environment, the secondary standard was revised to be consistent with the revised primary standard (73 FR 67011, November 12, 2008).

2. Approach for the Current Review

Our approach for reviewing the current secondary standard takes into consideration the approaches used in the last Pb NAAQS review and involves addressing key policy-relevant questions in light of currently available scientific and technical information. In evaluating whether it is appropriate to consider retaining the current secondary Pb standard, or whether consideration of revision is appropriate, we have adopted an approach in this review that builds on the general approach from the last review and reflects the body of evidence and information now available. As summarized above, the Administrator's decisions in the previous review were based on the conclusion that there was the potential for adverse ecological effects under the previous standard.

In our approach here, we focus on consideration of the extent to which a broader body of scientific evidence is now available that would inform decisions on either the potential for adverse effects to ecosystems under the current standard or the ability to set a more ecologically relevant secondary standard than was feasible in the previous review. In considering the scientific and technical information in sections II.B and II.C below, as in the PA, we draw on the ecological effects evidence presented in detail in the ISA and aspects summarized in the PA, along with the information associated with the screening-level risk assessment also in the PA. In section III.D below, we have taken into account both evidence-based and risk-based considerations framed by a series of policy-relevant questions presented in the PA. These questions generally discuss the extent to which we are able to better characterize effects and the likelihood of adverse effects in the environment under the current standard. Our approach to considering these issues recognizes that the available welfare effects evidence generally reflects laboratory-based evidence of toxicological effects on specific organisms exposed to concentrations of Pb. It is widely recognized, however, that environmental exposures from atmospherically derived Pb are likely to be lower than those commonly assessed in laboratory studies and that studies of exposures similar to those in the environment are often accompanied by significant confounding and modifying factors (*e.g.,* other metals, acidification), increasing our uncertainty about the likelihood and magnitude of organism and ecosystem responses.

B. Welfare Effects Information

Welfare effects addressed by the secondary NAAQS include, but are not limited to, effects on soils, water, crops, vegetation, manmade materials, animals, wildlife, weather, visibility and climate, damage to and deterioration of property, and hazards to transportation, as well as effects on economic values and on personal comfort and wellbeing. This discussion presents key aspects of the current evidence of Pb-related welfare effects that are assessed in the ISA and the 2006 CD, drawing from the summary of policy-relevant aspects in the PA (PA, section 5.1).

Lead has been demonstrated to have harmful effects on reproduction and development, growth, and survival in

many species as described in the assessment of the evidence available in this review and consistent with the conclusions drawn in the last review (ISA, section 1.7; 2006 CD, sections 7.1.5 and 7.2.5). A number of studies on ecological effects of Pb are newly available in this review and are critically assessed in the ISA as part of the full body of evidence. The full body of currently available evidence reaffirms conclusions on the array of effects recognized for Pb in the last review (ISA, section 1.7). In so doing, in the context of pollutant exposures considered relevant the ISA determines [71] that causal [72] or likely causal [73] relationships exist in both freshwater and terrestrial ecosystems for Pb with effects on reproduction and development in vertebrates and invertebrates; growth in plants and invertebrates; and survival in vertebrates and invertebrates (ISA, Table 1–3). In drawing judgments regarding causality for the criteria air pollutants, the ISA places emphasis on ''evidence of effects at doses (*e.g.,* blood Pb concentration) or exposures (*e.g.,* air concentrations) that are relevant to, or somewhat above, those currently experienced by the population.'' The ISA notes that the ''extent to which studies of higher concentrations are considered varies . . . but generally includes those with doses or exposures in the range of one to two orders of magnitude above current or ambient conditions.'' Studies ''that use higher doses or exposures may also be considered . . . [t]hus, a causality determination is based on weight of evidence evaluation for health, ecological or welfare effects, focusing on the evidence from exposures or doses generally ranging from current levels to one or two orders of magnitude above current levels'' (ISA, pp. lx to lxi).

Although considerable uncertainties are recognized in generalizing effects observed under particular, small-scale conditions, up to the ecosystem level of biological organization, the ISA determines that the cumulative evidence reported for Pb effects at such higher levels of biological organization and for endpoints in single species with direct relevance to population and ecosystem level effects (*i.e.,* development and reproduction, growth, survival) is sufficient to conclude that a causal relationship is likely to exist between Pb exposures and community and ecosystem-level effects in freshwater and terrestrial systems (ISA, section 1.7.3.7).

The ISA also presents evidence for saltwater ecosystems, concluding that current evidence is inadequate to make causality determinations for most population-level responses, as well as community and ecosystem effects, while finding the evidence to be suggestive linking Pb and effects on reproduction and development in marine invertebrates (ISA, Table 1–3, sections 6.3.12 and 6.4.21).

As in prior reviews of the Pb NAAQS, this review is focused on those effects most pertinent to ambient air Pb exposures. Given the reductions in ambient air Pb concentrations over the past decades, these effects are generally those associated with the lowest levels of Pb exposure that have been evaluated. Additionally, we recognize the limitations on our ability to draw conclusions about environmental exposures from ecological studies of organism-level effects, as most studies were conducted in laboratory settings which may not accurately represent field conditions or the multiple variables that govern exposure.

The relationship between ambient air Pb and ecosystem response is important in making the connection between current emissions of Pb and the potential for adverse ecological effects. The limitations in the data available on this subject for the last review were significant. There is no new evidence since the last review that substantially improves our understanding of the relationship between ambient air Pb and measurable ecological effects. As stated in the last review, the role of ambient air Pb in contributing to ecosystem Pb has been declining over the past several decades. It remains difficult to apportion exposure between air and other sources to inform our understanding of the potential for ecosystem effects that might be associated with air emissions. As noted in the ISA, *''[t]he amount of Pb in ecosystems is a result of a number of inputs and it is not currently possible to determine the contribution of atmospherically-derived Pb from total Pb in terrestrial, freshwater or saltwater systems''* (ISA, section 6.5). Further, considerable uncertainties also remain in drawing conclusions from effects evidence observed under laboratory conditions with regard to effects expected at the ecosystem level in the environment. In many cases it is difficult to characterize the nature and magnitude of effects and to quantify relationships between ambient concentrations of Pb and ecosystem response due to the existence of multiple stressors, variability in field conditions, and differences in Pb bioavailability at that level of organization (ISA, section 6.5). In summary, the ISA concludes that ''[r]ecent information available since the 2006 Pb AQCD, includes additional field studies in both terrestrial and aquatic ecosystems, but the connection between air concentration and ecosystem exposure continues to be poorly characterized for Pb and the contribution of atmospheric Pb to specific sites is not clear'' (ISA, section 6.5).

It is also important to consider the fate and transport of both current Pb and Pb emitted in the past. It is this past legacy of Pb that was cited as a significant source of uncertainty in the last review. The extensive history of Pb uses in developed countries coupled with atmospheric transport processes has left a legacy of Pb in ecosystems globally (*e.g.,* 2006 CD, sections 2.3.1 and 7.1; 1977 CD, section 6.3.1). Records of U.S. atmospheric emissions of Pb in the twentieth and late nineteenth centuries have been documented in sediment cores (PA, section 2.3; ISA, section 2.6.2; Landers et al., 2010). Once deposited, Pb can be transported by stormwater runoff or resuspension to catchments and nearby water bodies or stored in soil layers in forested areas, its further movement influenced by soil or sediment composition and chemistry and physical processes. Some new studies are available that provide additional information, briefly summarized below, on Pb cycling, flux and retention within terrestrial and aquatic systems. This new information does not fundamentally change our understanding from the last review of Pb movement through or accumulation in ecosystems over time but rather improves our understanding of some of the underlying processes and

[71] Since the last Pb NAAQS review, the ISAs, which have replaced CDs in documenting each review of the scientific evidence (or air quality criteria), employ a systematic framework for weighing the evidence and describing associated conclusions with regard to causality, using established descriptors: ''causal'' relationship with relevant exposure, ''likely'' to be a causal relationship, evidence is ''suggestive'' of a causal relationship, ''inadequate'' evidence to infer a causal relationship, and ''not likely'' to be a causal relationship (ISA, Preamble).

[72] In determining that a causal relationship exists for Pb with specific ecological or welfare effects, the EPA has concluded that ''[e]vidence is sufficient to conclude that there is a causal relationship with relevant pollutant exposures (*i.e.,* doses or exposures generally within one to two orders of magnitude of current levels)'' (ISA, p. lxii).

[73] In determining a likely causal relationship exists for Pb with specific ecological or welfare effects, the EPA has concluded that ''[e]vidence is sufficient to conclude that there is a likely causal association with relevant pollutant exposures . . . but uncertainties remain'' (ISA, p. lxii).

mechanisms in soil, water and sediment. There is little new information, however, on fate and transport in ecosystems specifically related to air-derived Pb (ISA, section 2.3). There is limited newly available information with regard to the timing of ecosystem recovery from historic atmospheric deposition of Pb (ISA, sections 2.3.2.4 and 2.3.3.3).

Overall, recent studies in terrestrial ecosystems provide deposition data consistent with deposition fluxes reported in the 2006 CD and demonstrate consistently that atmospheric deposition of Pb has decreased since the phase-out of leaded on-road gasoline (PA, section 2.3.2.2; ISA, section 2.3.3). Follow-up studies in several locations at high elevation sites indicate little change in soil Pb concentrations since the phase-out of leaded onroad gasoline in surface soils, consistent with the high retention reportedly associated with reduced microbial activity at lower temperatures associated with high elevation sites. However, amounts of Pb in the surface soils at some lower altitude sites were reduced over the same time period in the same study (ISA, section 2.3.3). New studies in the ISA also enhance our understanding of Pb sequestration in forest soils by providing additional information on the role of leaf litter as a Pb reservoir in some situations and the effect of litter decomposition on Pb distribution (ISA, section 2.3.3).

Recent research on Pb transport in aquatic systems has provided a large body of observations confirming that such transport is dominated by colloids rich in iron and organic material (ISA, section 2.3.2). Recent research on Pb flux in sediments provides greater detail on resuspension processes than was available in the 2006 CD, including research on resuspended Pb largely associated with organic material or iron and manganese particles and research on the important role played by anoxic or depleted oxygen environments in Pb cycling in aquatic systems. This newer research is consistent with prior evidence in indicating that appreciable resuspension and release from sediments largely occurs during discrete events related to storms. It has also confirmed that resuspension is an important process that strongly influences the lifetime of Pb in bodies of water. Finally, there have been advances in understanding and modeling of Pb partitioning between organic material and sediment in aquatic environments (ISA, section 2.7.2).

The bioavailability of Pb is also an important component of understanding the effects Pb is likely to have on organisms and ecosystems (ISA, section 6.3.3). It is the amount of Pb that can interact within the organism that leads to toxicity, and there are many factors which govern this interaction (ISA, sections 6.2.1 and 6.3.3). The bioavailability of metals varies widely depending on the physical, chemical, and biological conditions under which an organism is exposed (ISA, section 6.3.3). Studies newly available since the last Pb NAAQS review provide additional insight into factors that influence the bioavailability of Pb to specific organisms (ISA, section 6.3.3). In general, this evidence is supportive of previous conclusions and does not identify significant new variables from those identified previously. Section 6.3.3 of the ISA provides a detailed discussion of bioavailability in terrestrial systems. With regard to aquatic systems, a detailed discussion of bioavailability in freshwater systems is provided in sections 6.4.3 and 6.4.4 of the ISA, and section 6.4.14 of the ISA discusses bioavailability in saltwater systems.

In terrestrial systems, the amount of bioavailable Pb present determines the impact of soil Pb to a much greater extent than does the total amount present (ISA, section 6.3.11). In such ecosystems, Pb is deposited either directly onto plant surfaces or onto soil where it can bind with organic matter or dissolve in pore water. The Pb dissolved in pore water is particularly bioavailable to organisms in the soil and, therefore, the impact of this Pb on the ecosystem is potentially greater than soil Pb that is not in pore water (ISA, section 6.3.11).

In aquatic systems as in terrestrial systems, the amount of Pb bioavailable to organisms is a better predictor of effect on organisms than the overall amount of Pb in the system. Once atmospherically derived Pb enters surface water bodies through deposition or runoff, its fate and bioavailability are influenced by many water quality characteristics, such as pH, suspended solids levels and organic content (ISA, section 6.4.2). In sediments, bioavailability of Pb to sediment-dwelling organisms may be influenced by the presence of other metals, sulfides, iron oxides and manganese oxides and also by physical disturbance (ISA, section 2.6.2). For many aquatic organisms, Pb dissolved in the water column can be the primary exposure route, while for others sediment ingestion is significant (ISA, section 2.6.2). As recognized in the 2006 CD and further supported in the ISA, there is a body of evidence showing that uptake and elimination of Pb vary widely among aquatic species.

There is a substantial amount of new evidence in this review regarding the ecological effects of Pb on individual terrestrial and aquatic species with less new information available on marine species and ecosystems. On the whole, this evidence supports previous conclusions that Pb has effects on growth, reproduction and survival, and that under some conditions these effects can be adverse to organisms and ecosystems. The ISA provides evidence of effects in additional species and in a few cases at lower exposures than reported in the previous review, but does not substantially alter our understanding of the ecological endpoints affected by Pb from the previous review. Looking beyond organism-level evidence, the evidence of adversity in natural systems remains sparse due to the difficulty in determining the effects of confounding factors such as co-occurring metals or system characteristics that influence bioavailability of Pb in field studies. The following paragraphs summarize the information presented in this review for terrestrial, aquatic and marine systems.

With regard to terrestrial ecosystems, recent studies cited in this review support previous conclusions about the effects of Pb, namely that increasing soil Pb concentrations in areas of Pb contamination (*e.g.,* mining sites and industrial sites) can cause decreases in microorganism abundance, diversity, and function. Previous reviews have also reported on effects on bird and plant communities (2006 CD, section AX7.1.3). The shifts in bacterial species and fungal diversity have been observed near long-established sources of Pb contamination (ISA, section 6.3.12.7). Most recent evidence for Pb toxicity to terrestrial plants, invertebrates and vertebrates is from single-species assays in laboratory studies which do not capture the complexity of bioavailability and other modifiers of effect in natural systems (ISA, section 6.3.12.7). Further, models that might account for modifiers of bioavailability have proven difficult to develop (ISA, p. 6–16).

Evidence presented in the ISA and prior CDs demonstrates the toxicity of Pb in aquatic ecosystems and the role of many factors, including Pb speciation and various water chemistry properties, in modifying toxicity (ISA, section 1.7.2). Since the 2006 CD, additional evidence for community and ecosystem level effects of Pb is available, primarily in microcosm studies or field studies with other metals present (ISA, section 6.4.11). Such evidence described in

previous CDs includes alteration of predator-prey dynamics, species richness, species composition, and biodiversity. New studies available in this review provide evidence in additional habitats for these community and ecological-scale effects, specifically in aquatic plant communities and sediment-associated communities at both acute and chronic exposures involving concentrations similar to those previously reported (ISA, section 6.4.7). In many cases, it is difficult to characterize the nature and magnitude of effects and to quantify relationships between ambient concentrations of Pb and ecosystem response due to existence of multiple ecosystem-level stressors, variability in field conditions, and differences in Pb bioavailability (ISA, sections 1.7.3.7 and 6.4.7). Additionally, the degree to which air concentrations have contributed to such effects in freshwater ecosystems is largely unknown.

With regard to evidence in marine ecosystems, recently available evidence on the toxicity of Pb to marine algae augments the 2006 CD findings of variation in sensitivity across marine species. Recent studies on Pb exposure include reports of growth inhibition and oxidative stress in a few additional species of marine algae (ISA, section 6.4.15). Recent literature provides little new evidence of endpoints or effects in marine invertebrates beyond those reported in the 2006 CD. For example, some recent studies strengthen the evidence presented in the 2006 CD regarding negative effects of Pb exposure on marine invertebrates (ISA, section 6.4.15.2). Recent studies also identify several species exhibiting particularly low sensitivity to high acute exposures (ISA, section 6.4.15.2). Little new evidence is available of Pb effects on marine fish and mammals for reproductive, growth and survival endpoints that are particularly relevant to the population level of biological organization and higher (ISA, section 6.4.15). New studies on organism-level effects from Pb in saltwater ecosystems (ISA, section 6.4.15) provide little evidence to inform our understanding of linkages among atmospheric concentrations, ambient exposures in saltwater systems and such effects or to inform our conclusions regarding the likelihood of adverse effects under conditions associated with the current NAAQS for Pb. Nor does the currently available evidence indicate significantly different exposure levels from the previous review at which ecological systems or receptors are expected to experience effects.

During the last review, the 2006 CD assessed the available information on critical loads for Pb (2006 CD, section 7.3). This information included publications on methods and example applications, primarily in Europe, specific to the bedrock geology, soil types, vegetation, and historical deposition trends in each European country (2006 CD, p. E–24), with no analyses available for U.S. locations (2006 CD, sections 7.3.4–7.3.6). As a result, the 2006 CD concluded that ''[c]onsiderable research is necessary before critical load estimates can be formulated for ecosystems extant in the United States'' (2006 CD, p. E–24).

For this current review, newly available evidence pertaining to critical loads analysis includes limited recent research on consideration of bioavailability in characterizing Pb effect concentrations or indices and on modeling approaches to incorporate chemistry effects on Pb speciation and bioavailability (ISA, sections 6.3.7 and 6.4.8). With consideration of this information and the four critical load analysis studies newly available in this review (none of which are for U.S. ecosystems), the ISA does not modify the conclusions noted above from the 2006 CD (ISA, sections 6.1.3, 6.3.7 and 6.4.8). In summary, the new information in this review does not appreciably change our evidence base or further inform our understanding of critical loads of Pb, including critical loads in sensitive U.S. ecosystems.

There is no new evidence since the last review that substantially improves our understanding of the relationship between ambient air Pb and measurable ecological effects. As stated in the last review, the role of ambient air Pb in contributing to ecosystem Pb has been declining over the past several decades. It remains difficult to apportion exposure between air and other sources to better inform our understanding of the potential for ecosystem effects that might be associated with air emissions. As noted in the ISA, ''[t]he amount of Pb in ecosystems is a result of a number of inputs and it is not currently possible to determine the contribution of atmospherically-derived Pb from total Pb in terrestrial, freshwater or saltwater systems'' (ISA, section 6.5). Further, considerable uncertainties also remain in drawing conclusions from evidence of effects observed under laboratory conditions with regard to effects expected at the ecosystem level in the environment. In many cases it is difficult to characterize the nature and magnitude of effects and to quantify relationships between ambient concentrations of Pb and ecosystem response due to the existence of multiple stressors, variability in field conditions, and differences in Pb bioavailability at that level of organization (ISA, section 6.5). In summary, the ISA concludes that ''[r]ecent information available since the 2006 Pb AQCD, includes additional field studies in both terrestrial and aquatic ecosystems, but the connection between air concentration and ecosystem exposure continues to be poorly characterized for Pb and the contribution of atmospheric Pb to specific sites is not clear'' (ISA, section 6.5).

C. Summary of Risk Assessment Information

The risk assessment information available in this review and summarized here is based on the screening-level risk assessment performed for the last review, described in the 2006 REA, 2007 Staff Paper and 2008 notice of final decision (73 FR 66964, November 12, 2008), as considered in the context of the evidence newly available in this review (PA, section 5.2). As described in the REA Planning Document, careful consideration of the information newly available in this review, with regard to designing and implementing a full REA for this review, led us to conclude that performance of a new REA for this review was not warranted (REA Planning Document, section 3.3). Based on their consideration of the REA Planning Document analysis, the CASAC Pb Review Panel generally concurred with the conclusion that a new REA was not warranted in this review (Frey, 2011b). Accordingly, the risk/exposure information considered in this review is drawn primarily from the 2006 REA as summarized below (PA, section 5.2 and Appendix 5A; REA Planning Document, section 3.1).

The 2006 screening-level assessment focused on estimating the potential for ecological risks associated with ecosystem exposures to Pb emitted into ambient air (PA, section 5.2; 2006 REA, section 7). A national-scale screen was used to evaluate surface water and sediment monitoring locations across the U.S. for the potential for ecological impacts that might be associated with atmospheric deposition of Pb (2006 REA, section 7.1.2). In addition to the national-scale screen (2006 REA, section 3.6), the assessment involved a case study approach, with case studies for areas surrounding a primary Pb smelter (2006 REA, section 3.1) and a secondary Pb smelter (2006 REA, section 3.2), as well as a location near a non-urban roadway (2006 REA, section 3.4). An additional case study, focused on

consideration of atmospherically derived Pb effects on an ecologically vulnerable ecosystem (Hubbard Brook Experimental Forest), was identified (2006 REA, section 3.5). The Hubbard Brook Experimental Forest (HBEF), in the White Mountain National Forest, near North Woodstock, New Hampshire, was selected as a fourth case study because of its location and its long record of available data on concentration trends of Pb in three media (air or deposition from air, soil, and surface water). The HBEF case study was a qualitative analysis focusing on a summary review of the literature, without new quantitative analyses (2006 REA, Appendix E). For the other three case studies, exposure concentrations of Pb in soil, surface water, and/or sediment concentrations were estimated from available monitoring data or modeling analysis and then compared to ecological screening benchmarks (2006 REA, section 7.1).

In interpreting the results from the 2006 REA, the PA considers newly available evidence that may inform interpretation of risk under the now current standard (PA, section 5.2). Factors that could alter our interpretation of risk would include new evidence of harm at lower concentrations of Pb, new linkages that enable us to draw more explicit conclusions as to the air contribution of environmental exposures, and new methods of interpreting confounding factors that were largely uncontrolled in the previous risk assessment. In general, however, the key uncertainties identified in the last review remain today.

The results for the ecological screening assessment for the three case studies and the national-scale screen for surface water and for sediment in the last review indicated a potential for adverse effects from ambient Pb to multiple ecological receptor groups in terrestrial and aquatic locations. Detailed descriptions of the location-specific case studies and the national screening assessment, key findings of the risk assessment for each, and an interpretation of the results with regard to past air conditions can be found in the 2006 REA. In considering the potential for adverse welfare effects to result from levels of air-related Pb that would meet the current standard, the findings of the 2006 REA, as summarized in the PA, are discussed below.

While the contribution to Pb concentrations from air as compared to nonair sources is not quantified, air emissions from the primary Pb smelter case study facility were substantial (2006 REA, Appendix B). In addition, this facility, which closed in 2013, had been emitting Pb for many decades, including some seven decades prior to establishment of any Pb NAAQS, such that it is likely air concentrations associated with the facility were substantial relative to the 1978 NAAQS, which it exceeded at the time of the last review. At the time of the last review and also since the adoption of the current standard, concentrations monitored near this facility have exceeded the level of the applicable NAAQS (2007 Staff Paper, Appendix 2B–1; PA, Appendices 2D and 5A). Accordingly, this case study is not informative for considering the likelihood of adverse welfare effects related to Pb from air sources under air quality conditions associated with meeting the current Pb standard.

The secondary Pb smelter case study location continues to emit Pb, and the county where this facility is located does not meet the current Pb standard (PA, Appendices 2D and 5A). Given the exceedances of the current standard, which likely extend back over 4 to 5 decades, this case study also is not informative for considering the likelihood of adverse welfare effects related to Pb from air sources under air quality conditions associated with meeting the current Pb standard.

The locations for the near-roadway non-urban case study are highly impacted by past deposition of gasoline Pb. It is unknown whether current conditions at these sites exceed the current Pb standard, but, given evidence from the past of Pb concentrations near highways that ranged above the previous (1978) Pb standard (1986 CD, section 7.2.1), conditions at these locations during the time of leaded gasoline very likely exceeded the current standard. Similarly, those conditions likely resulted in Pb deposition associated with leaded gasoline that exceeds that being deposited under air quality conditions that would meet the current Pb standard. Given this legacy, consideration of the potential for environmental risks from levels of air-related Pb associated with meeting the current Pb standard in these locations is highly uncertain.

The extent to which past air emissions of Pb have contributed to surface water or sediment Pb concentrations at the locations identified in the national scale surface water and sediment screen is unclear. For some of the surface water locations, nonair sources likely contributed significantly to the surface water Pb concentrations. For other locations, a lack of nearby nonair sources indicated a potential role for air sources to contribute to observed surface water Pb concentrations. Additionally, these concentrations may have been influenced by Pb in resuspended sediments and may reflect contribution of Pb from erosion of soils with Pb derived from historic as well as current air emissions.

The most useful case study to the current review is that of the Vulnerable Ecosystem Case Study located in the HBEF. This case study was focused on consideration of information which included a long record (from 1976 through 2000) of available data on concentration trends of Pb in three media (air or deposition from air, soil, and surface water). While no quantitative analyses were performed, a summary review of literature published on HBEF was developed. This review indicated: (1) Atmospheric Pb inputs do not directly affect stream Pb levels at HBEF because deposited Pb is almost entirely retained in the soil profile; and (2) soil horizon analysis results showed Pb to have become more concentrated at lower soil depths over time, with the soil serving as a Pb sink, appreciably reducing Pb in pore water as it moves through the soil layers to streams (dissolved Pb concentrations were reduced from 5 μg/L to about 5 ng/L from surface soil to streams). As a result, the HBEF studies concluded that the contribution of dissolved Pb from soils to streams was insignificant (2006 REA, Appendix E). Further, atmospheric input of Pb, based on bulk precipitation data, was estimated to decline substantially from the mid-1970s to 1989; forest floor soil Pb concentrations between 1976 and 2000 were also estimated to decline appreciably (2006 REA, sections E.1 and E.2). In considering HBEF and other terrestrial sites with Pb burdens derived primarily from long-range atmospheric transport, the 2006 CD found that ''[d]espite years of elevated atmospheric Pb inputs and elevated concentrations in soils, there is little evidence that sites affected primarily by long-range Pb transport have experienced significant effects on ecosystem structure or function'' (2006 CD, p. AX7–98). The explanation suggested by the 2006 CD for this finding is ''[l]ow concentrations of Pb in soil solutions, the result of strong complexation of Pb by soil organic matter'' (2006 CD, p. AZX7–98). While more recent soil or stream data on Pb concentrations are not available, we find it unlikely, given the general evidence for air Pb emissions and concentration

declines over the past several decades (*e.g.,* PA, Figures 2–1, 2–7 and 2–8), that conditions would have worsened from those on which these conclusions were drawn (*e.g.,* soil data through 2000). Therefore, this information suggests that the now-lower ambient air concentrations associated with meeting the current standard would not be expected to directly impact stream Pb levels.

With regard to new evidence of Pb effects at lower concentrations, it is necessary to consider that the evidence of adversity due specifically to Pb in natural systems is limited, in no small part because of the difficulty in determining the effects of confounding factors such as multiple metals and modifying factors influencing bioavailability in field studies. Modeling of Pb-related exposure and risk to ecological receptors is subject to a wide array of sources of both variability and uncertainty. Variability is associated with geographic location, habitat types, physical and chemical characteristics of soils and water that influence Pb bioavailability and terrestrial and aquatic community composition. Lead uptake rates by invertebrates, fish, and plants may vary by species and season. For wildlife, variability also is associated with food ingestion rates by species and season, prey selection, and locations of home ranges for foraging relative to the Pb contamination levels (USEPA, 2005b).

There are significant difficulties in quantifying the role of air emissions under the current standard, which is significantly lower than the previous standard. As recognized in the PA, Pb deposited before the standard was enacted remains in soils and sediments, complicating interpretations regarding the impact of the current standard; historic Pb emitted from leaded gasoline usage continues to move slowly through systems along with more recently deposited Pb and Pb derived from nonair sources (PA, section 1.3.2). The results from the location-specific case studies and the surface and sediment screen performed in the last review are difficult to interpret in light of the current standard and are largely not useful in informing judgments of the potential for adverse effects at levels of deposition meeting the current standard.

D. Conclusions on Adequacy of the Current Secondary Standard

1. Evidence- and Risk-Based Considerations in the Policy Assessment

The current evidence, as discussed more fully in the PA, continues to support the conclusions from the previous review regarding key aspects of the ecological effects evidence for Pb and the effects of exposure associated with levels of Pb occurring in ecological media in the U.S. The EPA's conclusions in this regard are based on consideration of the assessment of the currently available evidence in the ISA, particularly with regard to key aspects summarized in the PA.

In considering the welfare effects evidence with respect to the adequacy of the current standard, the PA considers the array of evidence newly assessed in the ISA with regard to the degree to which this evidence supports conclusions about the effects of Pb in the environment that were drawn in the last review and the extent to which it reduces previously recognized areas of uncertainty. Further, the PA considers the current evidence and associated conclusions about the potential for effects to occur as a result of the much lower ambient Pb concentrations allowed by the current secondary standard (set in 2008) than those allowed by the prior standard, which was the focus of the last review. These considerations, as discussed below, inform the Administrator's conclusions regarding the extent to which the evidence supports or calls into question the adequacy of protection afforded by the current standard.

The range of effects that Pb can exert on terrestrial and aquatic organisms indicated by information available in the current review is summarized in the ISA (ISA, sections 1.7, 6.3 and 6.4) and largely mirrors the findings of the previous review (PA, section 5.1). The integrated synthesis contained in the ISA conveys how effects of Pb can vary with species and life stage, duration of exposure, form of Pb, and media characteristics such as soil and water chemistry. A wide range of organism effects are recognized, including effects on growth, development (particularly of the nervous system) and reproductive success (ISA, sections 6.3 and 6.4). Lead is recognized to distribute from the air into multiple environmental media, as summarized in section I.D above, contributing to multiple exposure pathways for ecological receptors. As discussed in section 5.1 of the PA, many factors affect the bioavailability of Pb to receptors in terrestrial and aquatic ecosystems, contributing to differences between laboratory-assessed toxicity and Pb toxicity in these ecosystems, and challenging our consideration of environmental impacts of Pb emitted to ambient air.

In studies in a variety of ecosystems, adverse ecosystem-level effects (including decreases in species diversity, loss of vegetation, changes to community composition, primarily in soil microbes and plants, decreased growth of vegetation, and increased number of invasive species) have been demonstrated near smelters, mines and other industries that have released substantial amounts of Pb, among other materials, to the environment (ISA, sections 6.3.12 and 6.4.12). As noted in the PA, however, our ability to characterize the role of air emissions of Pb in contributing to these effects is complicated because of coincident releases to other media and of other pollutants. Co-released pollutants include a variety of other heavy metals, in addition to sulfur dioxide, which may cause toxic effects in themselves and may interact with Pb in the environment, contributing uncertainty to characterization of the role of Pb from ambient air with regard to the reported effects (PA, section 5.1). These uncertainties limit our ability to draw conclusions regarding the extent to which Pb-related effects may be associated with ambient air conditions that would meet the current standard.

The role of historically emitted Pb poses additional complications in addressing this question, as discussed in the PA (PA, section 1.3.2). The vast majority of Pb in the U.S. environment today, particularly in terrestrial ecosystems, was deposited in the past during the use of Pb additives in gasoline (2006 CD, pp. 2–82, AX7–36 to AX7–38, AX7–98; Johnson et al., 2004), although contributions from industrial activities, including metals industries, have also been documented (ISA, section 2.2.2.3, Jackson et al., 2004). The gasoline-derived Pb was emitted in very large quantities (2006 CD, p. AX7–98 and ISA, Figure 2–8) and predominantly in small sized particles which were widely dispersed and transported across large distances, within and beyond the U.S. (ISA, section 2.2). As recognized in the PA, historical records provided by sediment cores in various environments document the substantially reduced Pb deposition (associated with reduced Pb emissions) in many locations (PA, sections 2.3.1 and 2.3.3.2; ISA, section 2.2.1). As Pb is persistent in the environment, these substantial past environmental releases are expected to generally dominate current nonair media concentrations.

There is very limited evidence to relate specific ecosystem effects with current ambient air concentrations of Pb through deposition to terrestrial and aquatic ecosystems and subsequent movement of deposited Pb through the environment (*e.g.,* soil, sediment, water,

organisms). The potential for ecosystem effects of Pb from atmospheric sources under conditions meeting the current standard is difficult to assess due to limitations on the availability of information to fully characterize the distribution of Pb from the atmosphere into ecosystems over the long term, as well as limitations on information on the bioavailability of atmospherically deposited Pb (as affected by the specific characteristics of the receiving ecosystem). Therefore, while information available since the 2006 CD includes additional terrestrial and aquatic field studies, ''the connection between air concentration and ecosystem exposure and associated potential for welfare effects continues to be poorly characterized for Pb'' (ISA, section 6.5). Such a connection is even harder to characterize with respect to the current standard than it was in the last review with respect to the previous, much higher, standard.

The current evidence also continues to support conclusions from the last review with regard to interpreting the risk and exposure results. These conclusions are based on consideration of the screening-level ecological risk assessment results from the last review as described in the 2006 REA and summarized in the notice of final rulemaking (73 FR 67009, November 12, 2008) and in light of the currently available evidence in the ISA (PA, section 5.2). As noted in section III.C above, the results from three of the four case studies and from the national screens are largely not useful in informing judgments of the potential for adverse effects at levels of deposition associated with conditions that meet the current standard. The Vulnerable Ecosystem Case Study at the HBEF is more illustrative with regard to the current review and, accordingly, is given primary consideration. The EPA concluded that atmospheric Pb inputs of the past did not directly affect stream Pb levels at HBEF because deposited Pb is almost entirely retained in the soil profile and that there was ''little evidence that sites affected primarily by long-range Pb transport [such as this one] have experienced significant effects on ecosystem structure or function'' (2006 CD, p. AX–98). We further note here that, as conditions are unlikely to have worsened since those on which those conclusions were based, we find it likely that current ambient air concentrations do not directly impact stream Pb levels under air quality conditions associated with meeting the now-current standard.

The available risk and exposure information continues to be sufficient to conclude that the 1978 standard was not providing adequate protection to ecosystems and, when considered with regard to air-related ecosystem exposures likely to occur with air Pb levels that just meet the now-current standard, additionally does not provide evidence of adverse effects under the current standard.

2. CASAC Advice

In the current review of the secondary standard for Pb, the CASAC has provided advice and recommendations in their review of drafts of the ISA, of the REA Planning Document, and of the draft PA. We have additionally received comments from the public on drafts of these documents.[74]

In their advice and comments conveyed in the context of their review of the draft PA, the CASAC agreed with staff's preliminary conclusions that the available information since the last review is not sufficient to warrant revision to the secondary standard (Frey, 2013b). On this subject, the CASAC letter said that ''[o]verall, the CASAC concurs with the EPA that the current scientific literature does not support a revision to the Primary Lead (Pb) National Ambient Air quality Standard (NAAQS) nor the Secondary Pb NAAQS'' (Frey, 2013b, p. 1). The CASAC also recognized the many uncertainties and data gaps in the new scientific literature and recommended that research be performed in the future to address these limitations (Frey, 2013b, p. 2).

> Given the existing scientific data, the CASAC concurs with retaining the current secondary standard without revision. However, the CASAC also notes that important research gaps remain. For example questions remain regarding the relevance of the primary standard's indicator, level, averaging time, and form for the secondary standard. Other areas for additional research to address data gaps and uncertainty include developing a critical loads approach for U.S. conditions and a multi-media approach to account for legacy Pb and contributions from different sources. Addressing these gaps may require reconsideration of the secondary standard in future assessments.

The very few public comments received on this review to date that have addressed adequacy of the current secondary Pb standard indicate support for retaining the current standard without revision, generally grouping the secondary standard with their similar view on the primary standard.

[74] All written comments submitted to the agency will be available in the docket for this rulemaking, as will be transcripts and minutes of the public meetings held in conjunction with CASAC's review of drafts of the PA, the REA Planning Document and the ISA.

3. Administrator's Proposed Conclusions on the Adequacy of the Current Standard

Based on the evidence and risk assessment information that is available in this review concerning the ecological effects and potential public welfare impacts of Pb emitted into ambient air, the Administrator proposes to conclude that the current secondary standard provides the requisite protection of public welfare from adverse effects and should be retained.

In considering the adequacy of the current standard, the Administrator has considered the assessment of the available evidence and conclusions contained in the ISA; the staff assessment of and conclusions regarding the policy-relevant technical information, including screening-level risk information, presented in the PA; the advice and recommendations from CASAC; and public comments to date in this review. In the discussion below, the Administrator gives weight to the PA conclusions, with which CASAC has concurred, and takes note of key aspects of the rationale presented for those conclusions which contribute to her proposed decision.

The Administrator notes the conclusion in the PA that the body of evidence on the ecological effects of Pb, expanded in some aspects since the last review, continues to support identification of ecological effects in organisms relating to growth, reproduction, and survival as the most relevant endpoints associated with Pb exposure. In consideration of the appreciable influence of site-specific environmental characteristics on the bioavailability and toxicity of environmental Pb in our assessment here, the PA noted the lack of studies conducted under conditions closely reflecting the natural environment. The currently available evidence, while somewhat expanded since the last review, does not include evidence of significant effects at lower concentrations or evidence of higher level ecosystem effects beyond those reported in the last review. There continue to be significant difficulties in interpreting effects evidence from laboratory studies to the natural environment and linking those effects to ambient air Pb concentrations. Further, the PA notes that the EPA is aware of no new critical loads information that would inform our interpretation of the public welfare significance of the effects of Pb in various U.S. ecosystems (PA, section 5.1). In summary, while new research has added to the understanding of Pb biogeochemistry and expanded the

list of organisms for which Pb effects have been described, the PA notes there remains a significant lack of knowledge about the potential for adverse effects on public welfare from ambient air Pb in the environment and the exposures that occur from such air-derived Pb, particularly under conditions meeting the current standard (PA, section 6.2.1). Thus, the scientific evidence presented in detail in the ISA, inclusive of that newly available in this review, is not substantively changed, most particularly with regard to the adequacy of the now current standard, from the information that was available in and supported the decision for revision in the last review (PA, section 6.2.1).

With respect to exposure/risk-based considerations, the PA recognizes the complexity of interpreting the previous risk assessment with regard to the ecological risk of ambient air Pb associated with conditions meeting the current standard and the associated limitations and uncertainties of such assessments. For example, the location-specific case studies as well as the national screen conducted in the last review reflect both current air Pb deposition as well as past air and nonair source contributions (PA, section 6.3). The Administrator takes note of the PA conclusion that the previous assessment is consistent with and generally supportive of the evidence-based conclusions about Pb in the environment, yet the limitations on our ability to apportion Pb between past and present air contributions and between air and nonair sources remain significant.

In the Administrator's consideration of the information available in this review of the Pb secondary standard, she gives weight to the PA conclusion that the currently available evidence and exposure/risk information do not call into question the adequacy of the current standard to provide the requisite protection for public welfare (PA, section 6.3). In so doing, she also notes the advice from CASAC in this review, including that ''[g]iven the existing scientific data, the CASAC concurs with retaining the current secondary standard without revision.'' In light of these and the above considerations, the Administrator finds that the currently available information does not call into question the adequacy of the current standard to provide the requisite protection for public welfare and, accordingly, reaches the conclusion that it is appropriate to retain the current secondary standard without revision. The Administrator solicits comment on this conclusion.

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 for review.

B. Paperwork Reduction Act

This action does not impose an information collection burden under the Paperwork Reduction Act. There are no information collection requirements directly associated with revisions to a NAAQS under section 109 of the CAA and this action does not propose any revisions to the NAAQS.

C. Regulatory Flexibility Act

I certify that this action will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act. This action will not impose any requirements on small entities. Rather, this action proposes to retain, without revision, existing national standards for allowable concentrations of lead in ambient air as required by section 109 of the CAA. *See also* American Trucking Associations v. EPA. 175 F.3d at 1044–45 (NAAQS do not have significant impacts upon small entities because NAAQS themselves impose no regulations upon small entities).

D. Unfunded Mandates Reform Act

This action does not contain any unfunded mandate as described in the Unfunded Mandates Reform Act, 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.

E. Executive Order 13132: Federalism

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

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

This action does not have tribal implications, as specified in Executive Order 13175. This action does not change existing regulations. It does not have a substantial direct effect on one or more Indian Tribes, since Tribes are not obligated to adopt or implement any NAAQS. The Tribal Authority Rule gives Tribes the opportunity to develop and implement CAA programs such as the Pb NAAQS, but it leaves to the discretion of the Tribe whether to develop these programs and which programs, or appropriate elements of a program, they will adopt. Thus, Executive Order 13175 does not apply to this action.

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

This action is not subject to Executive Order 13045 because it is not economically significant as defined in Executive Order 12866. The health effects evidence and risk assessment information for this action, which focuses on children in addressing the at-risk population, is summarized in sections II.B, II.C and II.D, and described in the ISA and PA, copies of which are in the public docket for this action.

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

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 that this action will not have disproportionately high and adverse human health or environmental effects on minority, low-income or indigenous populations. The action proposed in this notice is to retain without revision the existing NAAQS for Pb based on the Administrator's conclusion that the existing standards protect public health, including the health of sensitive groups, with an adequate margin of safety. As discussed earlier in this preamble (see section II), the EPA expressly considered the available information regarding health effects among at-risk populations in reaching the proposed decision that the existing standards are requisite.

K. Determination Under Section 307(d)

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

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List of Subjects in 40 CFR Part 50

Environmental protection, Air pollution control, Carbon monoxide, Lead, Nitrogen dioxide, Ozone, Particulate matter, Sulfur oxides.

Dated: December 19, 2014.

Gina McCarthy,

Administrator.

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Part III

Department of Transportation

Federal Highway Administration

23 CFR Part 490

National Performance Management Measures; Assessing Pavement Condition for the National Highway Performance Program and Bridge Condition for the National Highway Performance Program; Proposed Rule

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Part 490

[Docket No. FHWA–2013–0053]

RIN 2125–AF53

National Performance Management Measures; Assessing Pavement Condition for the National Highway Performance Program and Bridge Condition for the National Highway Performance Program

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of proposed rulemaking (NPRM); request for comments.

SUMMARY: Section 1203 of the Moving Ahead for Progress in the 21st Century Act (MAP–21) declared that performance management will transform the Federal-aid highway program and refocus it on national transportation goals, increase accountability and transparency of the Federal-aid highway program and improve project decisionmaking through performance-based planning and programming. Section 1203 of MAP–21 identifies the national transportation goals and requires the Secretary to promulgate a rule to establish performance measures in specified Federal-aid highway program areas. The FHWA is issuing three separate NPRMs to meet this requirement, and this is the second NPRM.

This NPRM proposes to establish measures for State Departments of Transportation (State DOTs) to use to carry out the National Highway Performance Program (NHPP) and to assess the condition of the following: pavements on the National Highway System (NHS) (excluding the Interstate System), bridges on the NHS, and pavements on the Interstate System. The NHPP is a core Federal-aid highway program that provides support for the condition and performance of the NHS and the construction of new facilities on the NHS, and ensures that investments of Federal-aid funds in highway construction are directed to support progress toward the achievement of performance targets established in a State's asset management plan for the NHS. This NPRM proposes regulations for the new performance aspects of the NHPP, which address: measures, targets, and reporting. The FHWA intends to make these performance aspects of the NHPP available to the public in a format that is easily understandable and accessible for download.

This second NPRM also includes a discussion of the collective rulemaking actions FHWA has or intends to take to implement MAP–21 performance-related provisions.

DATES: Comments must be received on or before April 6, 2015. Late comments will be considered to the extent practicable.

ADDRESSES: You may submit comments identified by the docket number FHWA USDOT–2013–0053 by any one of the following methods:

Fax: 1–202–493–2251;

Mail: U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590;

Hand Delivery: U.S. Department of Transportation, Docket Operations, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays; or

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

Instructions: All submissions must include the agency name, docket name and docket number or Regulatory Identification Number (RIN) for this rulemaking (2125–AF53). Note that all comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. Please see the Privacy Act heading in the **SUPPLEMENTARY INFORMATION** section of this document for Privacy Act information related to any submitted comments or materials.

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov* at any time or to U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Francine Shaw Whitson, Office of Infrastructure, (202) 366–8028, or Anne Christenson, Office of Chief Counsel, (202) 366–1356, Federal Highway Administration, 1200 New Jersey Avenue SE., Washington, DC 20590–0001. Office hours are from 8:00 a.m. to 4:30 p.m. e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION: The FHWA has other rulemaking efforts underway to establish the measures required under 23 U.S.C. 150(c). The first performance measure NPRM covered the proposed performance management measures to carry out the Highway Safety Improvement Program (HSIP) and to assess serious injuries and fatalities per vehicle mile traveled (VMT), and the number of serious injuries and fatalities. That NPRM was published on March 11, 2014 (79 FR 13846). The third performance measure NPRM will focus on measures for the performance of the NHS, the Congestion Mitigation and Air Quality Improvement (CMAQ) Program, and freight movement on the Interstate System. This last NPRM will also include a discussion that summarizes all three of the proposed rules to establish the measures required under 23 U.S.C. 150(c).

This current NPRM also proposes: The additional definitions that would be applicable to the proposed regulations; the process State DOTs and Metropolitan Planning Organizations (MPOs) would use to establish performance targets that reflect the measures proposed in this rulemaking; and the methodology State DOTs would use to assess compliance with the target achievement provision specified in MAP–21. The NPRM also proposes the process State DOTs would follow to report on progress toward the achievement of pavement and bridge condition-related performance targets. Finally, this NPRM proposes minimum levels for pavement and conditions on the Interstate System.

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I. Executive Summary

A. Purpose of the Regulatory Action

The MAP–21 (Pub. L. 112–141) transforms the Federal-aid highway

program by establishing new requirements for performance management to ensure the most efficient investment of Federal transportation funds. Performance management increases the accountability and transparency of the Federal-aid highway program and provides for a framework to support improved investment decision making through a focus on performance outcomes for key national transportation goals. As part of performance management, recipients of Federal-aid highway funds would make transportation investments to achieve performance targets that make progress towards national goals. The national performance goal for bridge and pavement condition is to maintain the condition of highway infrastructure assets in a state of good repair. The purpose of this rulemaking is to implement these MAP–21 performance management requirements.

Prior to MAP–21, there were no explicit requirements for State DOTs to demonstrate that their transportation program supported national performance outcomes. State DOTs were not required to measure condition, to establish targets, to assess progress towards targets, or to report on pavement and bridge condition in a nationally consistent manner that FHWA could use to assess the condition of the entire system. It was also difficult for FHWA to look at the effectiveness of the Federal-aid highway program as a means to address surface transportation performance at a national level.

This proposed rule is one of several rulemakings that DOT is or will be conducting to implement MAP–21's new performance management framework. The collective rulemakings would establish the regulations needed to more effectively evaluate and report on surface transportation performance across the country. This rulemaking proposes regulations that would: provide for greater consistency in the reporting of pavement and bridge conditions; require the establishment of targets that can be aggregated at the national level; require reporting in a consistent manner on progress achievement; and lastly require State DOTs to make significant progress. It would also require State DOTs to maintain their bridges and pavements at or above a minimum condition level. State DOTs would be expected to use the information and data generated as a result of the new regulations to better inform their transportation planning and programming decisionmaking. The new performance aspects of the Federal-aid program that would result from this rulemaking would provide FHWA the ability to better communicate a national performance story and to more reliably assess the impacts of Federal funding investments.

The FHWA is required to establish measures through a rulemaking to assess performance in 12 areas generalized as follows: (1) Serious injuries per VMT; (2) fatalities per VMT; (3) number of serious injuries; (4) number of fatalities; (5) pavement condition on the Interstate System; (6) pavement condition on the non-Interstate NHS; [1] (7) bridge condition on the NHS; (8) traffic congestion; (9) on-road mobile source emissions; (10) freight movement on the Interstate System; (11) performance of the Interstate System; and (12) performance of the non-Interstate NHS.[2] This rulemaking is the second of three NPRMs that together propose the establishment of performance measures for States DOTs and MPOs to use to carry out Federal-aid highway programs and to assess performance in each of these 12 areas. This rulemaking seeks to establish national measures for areas 5, 6, and 7, in the above list. Other rulemakings would establish national measures for the remaining areas in the above list. This NPRM proposes to establish performance measures to assess pavement and bridge conditions on the Interstate System and non-Interstate NHS for the purpose of carrying out the NHPP. The four proposed measures to assess pavement condition are: (1) Percentage of pavements on the Interstate System in Good condition; (2) Percentage of pavements on the Interstate System in Poor condition; (3) Percentage of pavements on the NHS (excluding the Interstate System) in Good condition; and (4) a Percentage of pavements on the NHS (excluding the Interstate System) in Poor condition. The two proposed performance measures for assessing bridge condition are: (1) Percentage of NHS Bridges Classified as in Good Condition; and (2) Percentage of NHS Bridges Classified as in Poor Condition.

This NPRM also proposes to establish the minimum level for pavement condition for the Interstate System as required by the statute. In addition, this NPRM proposes to establish the process for State DOTs and MPOs to use to establish and report targets and the process that FHWA will use to assess progress State DOTs have made in achieving targets.

[1] "Non-Interstate NHS" and "NHS (excluding the Interstate)" are used interchangeably throughout this NPRM and have the same meaning.

[2] These areas are listed within 23 U.S.C. 150(c), which requires the Secretary to establish measures to assess performance or condition.

B. Summary of the Major Provisions of the Regulatory Action in Question

The FHWA proposes the establishment of: Performance measures to be used by State DOTs to assess the condition of pavements and bridges and to carry out the NHPP; the process for State DOTs and MPOs to establish targets for each of the measures; the methodology to determine whether State DOTs have achieved their targets; the process for State DOTs to use to report on progress for targets; and the minimum levels for pavement conditions on the Interstate System for purposes of carrying out 23 U.S.C. 119(f)(1). The FHWA also proposes to incorporate the minimum level for condition of bridges on the NHS as required by 23 U.S.C. 119(f)(2).

This NPRM proposes to add to subpart A general information applicable to Part 490, to include requirements for target establishment, reporting on progress, and how determinations would be made on whether State DOTs have made significant progress toward NHPP targets. Subpart A also would include definitions and clarify terminology associated with target establishment, reporting, and making significant progress. Subparts C and D propose performance measures to assess pavement and bridge conditions. Section 490.105 proposes the process to be used by State DOTs and MPOs to establish targets for each of the four pavement and two bridge measures. The State DOTs would establish 2- and 4-year targets for a 4-year performance period for the condition of infrastructure assets. State DOTs would establish their first statewide targets 1 year after the effective date of this rule. The MPOs would establish targets by either supporting the State DOT's statewide target, or defining a target unique to the metropolitan area each time the State DOT establishes a target. The MPOs would be provided a 180-day period following the date at which the State DOT establishes a target to establish their pavement and bridge targets.

Section 490.107 proposes performance reporting for State DOTs and MPOs. The State DOT would submit their established targets in a baseline report at the beginning of the performance period and report progress at the midpoint and end of the performance period. State DOTs would be allowed to adjust their 4-year target at the midpoint of the performance period. The MPOs would not be required to provide separate reporting to FHWA; however, State DOTs and MPOs

would need to agree to a target establishment reporting process in the Metropolitan Planning Agreement, in accordance with 23 CFR part 450.

Section 490.109 proposes the method FHWA would use to determine if State DOTs have achieved or have made significant progress toward the achievement of their NHPP targets. Significant progress would be determined from an analysis of estimated performance/condition and measured performance/condition of each of the NHPP targets. If applicable, State DOTs would have the opportunity to discuss why targets were not achieved or significant progress was not made. If a State DOT fails to achieve significant progress for two consecutive biennial performance reporting periods (total of 4 years), then the State DOT is required to document in their next biennial performance report and encouraged to document sooner, the actions they will undertake to achieve their targets.

In subparts C and D, §§ 490.305 and 490.405 propose the pavement and bridge performance measures and program-specific definitions to ensure that the proposed performance measures are clear and consistent.

Sections 490.307 and 490.407 propose that State DOTs and MPOs use a total of six measures to assess the condition of pavements and bridges on the NHS. The proposed pavement measures would be applicable to both Interstate and non-Interstate NHS mainline roads and the proposed bridge measures would be applicable for all NHS bridges, including bridges on ramps that connect to NHS. Both the pavement and bridge measures would reflect the percentage of the system in good and poorp condition. The measure calculations would utilize data documented in the Highway Performance Monitoring System (HPMS) and in the National Bridge Inventory (NBI).

Section 490.315 proposes the minimum level for condition of pavements on the Interstate System as required by 23 U.S.C. 150(c)(3)(A)(iii).

Section 490.411 proposes to incorporate the minimum level for condition of bridges as required by 23 U.S.C 119(f)(2).

C. Costs and Benefits

The FHWA estimated the incremental costs associated with the new requirements proposed in this regulatory action that represent a change to current practices for State DOTs and MPOs.[3] The FHWA derived the costs of components by assessing the expected increase in level of effort from labor and additional capital needed to standardize and update State DOT data collection and reporting systems as well as the increase in level of effort from labor to establish and report targets. The FHWA sought opinions from pavement and bridge Subject Matter Experts (SME) to estimate impacts of the proposed rule. Cost estimates were developed based on assumptions informed by information received from SMEs.

To estimate costs, FHWA multiplied the level of effort, expressed in labor hours, with a corresponding loaded wage rate that varied by the type of laborer needed to perform the activity.[4] Where necessary, capital costs were included as well. Following this approach, the 10-year undiscounted incremental costs to comply with this rule are $196.4 million.

The FHWA expects that, upon implementation, the proposed rule would result in some significant benefits, although they are not easily quantifiable. Specifically, FHWA expects this proposed rule to result in improved pavement and bridge condition-related project, program, and policy choices. The proposed rule also would yield greater accountability for recipients of Federal funding because MAP–21-mandated reporting would increase visibility and transparency. In addition, the proposed rule would help focus the Federal-aid highway program on achieving balanced performance outcomes.

The FHWA could not directly quantify the expected benefits discussed above due to data limitations and the amorphous nature of the benefits from the proposed rule. Therefore, in order to evaluate the benefits, FHWA used a break-even analysis as the primary approach to quantify benefits. For both pavements and bridges, FHWA focused its break-even analysis on Vehicle Operating Costs (VOC) savings. The FHWA estimated the number of road miles of deficient pavement that would have to be improved (Table 8 in Section VI, Rulemaking Analysis and Notices) and the number of posted bridges that would have to be avoided (Table 9 in Section VI, Rulemaking Analysis and Notices) in order for the benefits of the rule to justify the costs. The results of the break-even analysis quantified the dollar value of the benefits that the proposed rule must generate to outweigh the threshold value, the estimated cost of the proposed rule, which is $196.4 million in undiscounted dollars. The FHWA believes that the proposed rule would surpass this threshold and, as a result, the benefits of the rule would outweigh the costs. The below table displays the Office of Management and Budget (OMB) A–4 Accounting Statement as a summary of the cost and benefits calculated for this rule.

OMB A–4—ACCOUNTING STATEMENT

Category	Estimates			Units			Source/citation
	Primary	Low	High	Year dollar	Discount rate (percent)	Period covered	
Benefits:							
Annualized Monetized ($ millions/year).	None	None	None	NA	7	NA	Not Quantified.
	None	None	None	NA	3	NA	
Annualized Quantified	None	None	None	NA	7	NA	Not Quantified.
	None	None	None	NA	3	NA	

[3] See Table 7 in Section VI, Rulemaking Analysis and Notices

[4] Bureau of Labor Statistics (BLS) Employee Cost Index, 2012

OMB A–4—ACCOUNTING STATEMENT—Continued

Category	Estimates			Units			Source/citation
	Primary	Low	High	Year dollar	Discount rate (percent)	Period covered	
Qualitative	With regard to the pavement condition measures, the rule is cost-beneficial if it results in the net improvement of approximately 435 miles of pavement (i.e., from Poor condition to Good) per year, or 4,350 miles over ten years, from its current base case projection. With regard to the bridge condition measures, 0.2 year-long bridge postings would need to be avoided per year, or 2 year-long bridge postings over ten years, in order for benefits to justify costs. Because of these low thresholds, FHWA determines that the proposed rule benefits outweigh the costs						Proposed Rule RIA.
Costs:							
Annualized Monetized ($/year).	$21,233,675			2012	7	10 Years	Proposed Rule RIA.
	$20,308,760			2012	3	10 Years.	
Annualized Quantified	None	None	None	2012	7	10 Years	Proposed Rule RIA.
	None	None	None	2012	3	10 Years	
Qualitative.							
Transfers	None.						
From/To	From:			To:.			
Effects:							
State, Local, and/or Tribal Government.	$21,162,705			2012	7	10 Years	Proposed Rule RIA.
	$20,241,409			2012	3	10 Years.	
Small Business	Not expected to have a significant impact on a substantial number of small entities.			NA	NA	NA	Proposed Rule RIA.

II. Table of Acronyms and Abbreviations

Acronym or abbreviation	Term
AASHTO	American Association of State Highway and Transportation Officials.
CFR	Code of Federal Regulations.
CMAQ	Congestion Mitigation and Air Quality Improvement Program.
CRCP	Continuously Reinforced Concrete Pavements.
DOT	U.S. Department of Transportation.
State DOT	State department of transportation.
E.O.	Executive Order.
FHWA	Federal Highway Administration.
FTA	Federal Transit Administration.
HPMS	Highway Performance Monitoring System.
HSIP	Highway Safety Improvement Program.
HSP	Highway Safety Plan.
IRI	International Roughness Index.
MAP–21	Moving Ahead for Progress in the 21st Century Act.
MPO	Metropolitan Planning Organization.
NARA	National Archives and Records Administration.
NBI	National Bridge Inventory.
NBIS	National Bridge Inspection Standards.
NHPP	National Highway Performance Program.
NCHRP	National Cooperative Highway Research Program.
NHS	National Highway System.
NPRM	Notice of Proposed Rulemaking.
OMB.	Office of Management and Budget.
PCCP or Jointed PCCP	Portland Cement Concrete Pavements.
PCI	Pavement Condition Index.
PRA	Paperwork Reduction Act.
PSR	Pavement Surface Rating.
RIA	Regulatory Impact Analysis.
RIN	Regulatory Identification Number.
RSL	Remaining Service Life.
Secretary	Secretary of the U.S. Department of Transportation.
SHSP	Strategic Highway Safety Plan.
TMA	Transportation Management Area.
U.S.C	United States Code.
VMT	Vehicle miles traveled.
VOCs	Vehicle Operating Costs.

III. Discussion of Stakeholder Engagement and Outreach

In developing the NPRMs required by 23 U.S.C. 150(c), including this NPRM, FHWA conducted outreach efforts to obtain technical information as well as information on operational and economic impacts from stakeholders and the public. The State DOTs, MPOs, transit agencies, and private/non-profit constituents across the country participated in the outreach efforts. A discussion of each contact or series of contacts influencing the agency's position may be found in the docket. A summary of the contacts are described below.

A. Consultation With State Departments of Transportation, Metropolitan Planning Organizations, and Other Stakeholders

In accordance with 23 U.S.C. 150(c)(1), DOT consulted regularly with affected stakeholders (State DOTs, MPOs, industry, advocacy organizations, etc.) to better understand the operational and economic impact of this proposed rule. In general, these consultations included:

- Conducting listening sessions and workshops to clarify stakeholder sentiment and capture diverse opinions on the interpretation of technical information of the potential economic and operational impacts of implementing 23 U.S.C. 150;
- Conducting listening sessions and workshops to better understand the state-of-the-practice on the economic and operational impacts of implementing various noteworthy practices, emerging technologies, and data reporting, collection, and analysis frameworks;
- Hosting webinars with targeted stakeholder audiences to ask for their viewpoints through a chat pod or conference call; and
- Attending meetings with non-DOT SMEs, including task forces, advocacy groups, private industry, non-DOT Federal employees, academia, etc., to discuss timelines, priorities, and the most effective methods for implementing 23 U.S.C. 150; and to discuss and collect information on the issues that need to be addressed or the questions that need to be answered in the NPRMs to facilitate efficient implementation.

B. Broader Public Consultation

It is DOT's policy to provide for and encourage public participation in the rulemaking process. In addition to the public participation that was coordinated in conjunction with the stakeholder consultation discussed above, DOT provided opportunities for broader public participation. The DOT invited the public to provide technical and economic information to improve the agency's understanding of a subject and the potential impacts of rulemaking. This was done by providing an email address (*performancemeasuresrulemaking@dot.gov*) feature on FHWA's MAP–21 Web site to allow the public to provide their comments and suggestions about the development of the performance measures and holding national online dialogues and listening sessions to ask the public to post their ideas on national performance measures, standards, and policies. The DOT also conducted educational outreach to inform the public about transportation-related performance measures and standards, and solicited comments on them.

In accordance with 23 U.S.C. 150(c)(2)(A), FHWA will ''provide States, metropolitan planning organizations, and other stakeholders not less than 90 days to comment on any regulation proposed by the Secretary . . .'' During the notice and comment period, FHWA will hold public meetings to explain the provisions contained in these NPRMs, including this NPRM. All such meetings will be open to the public. However, all comments regarding the NPRMs must be submitted in writing to the rulemaking docket.

C. Summary of Viewpoints Received

This section summarizes some of the common themes identified during the stakeholder outreach. These themes are organized by general concerns, pavement condition measure concerns, and bridge condition measure concerns. It is important to note that some of the stakeholder comments related to more than one topic. In that case, the comments were placed under whichever theme was most directly affected.

General concerns:

- Stakeholders questioned how FHWA would establish a methodology for determining significant progress toward achieving performance targets, and commented on the administrative burden on State DOTs and MPOs associated with target establishment and reporting.
- Stakeholders asked DOT to avoid creating a ''worst first'' approach to selecting priorities and requested that FHWA consider using Asset Management principles to consider financial imbalances including the concept that performance measures should not drive the selection of projects. Stakeholders would like performance management to drive a system-wide, risk-based project selection approach that looks at long-term outcomes.
- The stakeholders' key messages were simplicity, consistency, and flexibility.

Pavement Condition Measures

Stakeholders suggested various analytic and empirical methods for performance measurement. One of the suggestions was to consider the use of Remaining Service Life (RSL) as a pavement performance measure. Stakeholders expressed that an RSL based approach to performance management would help agencies determine the timing and level of rehabilitation activities. Currently, some States DOTs have pavement and bridge measures that relate to RSL. Other suggested approaches for pavement performance measures included the Roadway Pavement Health Index [5] and the Decay Ratio.[6]

Most stakeholders supported the use of International Roughness Index (IRI) as a pavement performance measure. Some added that it should not be the sole pavement performance measure and that there are some limitations to its ability to provide agencies sufficient information for making investment decisions. Those stakeholders that support its use pointed to the long history of IRI and its use in HPMS protocols.

Bridge Condition Measures

Stakeholders supported establishing bridge condition performance measures using the existing NBI data. However, stakeholders' opinions differed on the type of data to be used from the NBI and the processing of that data. For example, stakeholders were divided over the use of the ''Structurally Deficient'' classification. Some stakeholders also provided proprietary research information on advanced bridge condition assessment technologies and how these technologies may be used to reduce the number of structurally deficient bridges used today as a standard practice.

Some stakeholders commented that simply measuring the physical

[5] This propriety approach is intended to provide State DOTs the ability to relate tradeoffs between RSL, pavement management system data and life cycle costs in years and dollar metrics. This approach may not require changes to data collection or classification but would cost time and money to develop.

[6] The Decay Ratio is the ratio of deck area of bridges which have become newly deficient in the past year to the deck area of bridges which have been repaired/rehabilitated/replaced in the past year. More simply, Decay Ratio = (Deck Area Worse)/(Deck Area Improved).

condition of a bridge does not provide a complete picture of the infrastructure problems. In addition to the physical condition, stakeholders suggested that FHWA consider the cost of repair or replacement and the importance of the facility based upon how many vehicles it served. However, others felt that element-level bridge condition data, which provides granularity, is necessary to develop performance metrics that can help States make better informed decisions concerning their bridge preservation needs.

In addition, stakeholders conveyed other concerns regarding a proposed bridge condition measure. They believed FHWA should provide State DOTs and MPOs flexibility to move toward a national bridge performance measure based on element-level data in the near future and take into account other factors such as population changes. Stakeholders were also concerned that expansion of the NHS to include all principal arterial routes in a State may impact a State DOT's ability to meet the minimum level for condition of bridges. Some stakeholders suggested that the measure established for minimum standard of bridge condition be consistent with definition of ''state of good repair'' in the ''Bridge Preservation Guidance.'' [7]

IV. Rulemaking Authority and Background

The cornerstone of MAP–21's Federal-aid highway program transformation is the transition to a performance and outcome-based program. As part of this program, recipients of Federal-aid highway funds would invest resources in projects to achieve individual targets that collectively would make progress toward national goals.

The MAP–21 provisions that focus on the achievement of performance outcomes are contained in a number of sections of the law that are administered by different DOT agencies. Consequently, these provisions may require an implementation approach that includes a number of separate but related rulemakings, some from other modes within the DOT. This NPRM is focused on the implementation of some performance provisions related to the NHPP. The FHWA is also undertaking a rulemaking to implement new asset management requirements (RIN 2125–AF57) under the NHPP (23 U.S.C.119). Interested persons should refer to both rulemakings. Additional rulemakings are underway to implement other MAP–21 performance requirements. A summary of these rulemakings, as they relate to this proposed rule, is provided in this section, and additional information regarding related implementation actions is available on the FHWA Web site.[8]

Summary of Related Rulemakings

The DOT's proposal regarding MAP–21's performance requirements would be presented through several rulemakings, some of which were referenced in the above discussions. As a summary, these rulemaking actions are listed below and should be referenced for a complete picture of performance management implementation. The summary below describes the main provisions that DOT plans to propose for each rulemaking. The DOT will seek comment on each of these rulemakings.

1. First Federal-Aid Highway Performance Measures Rulemaking (RIN: 2125–AF49) [9]

a. Propose and define national measures for the HSIP
b. State and MPO target establishment requirements for Federal-aid highway program
c. Determination of significant progress toward the achievement of targets
d. Performance progress reporting requirements and timing
e. Discuss how FHWA intends to implement MAP–21 performance related provisions.

2. Second Federal-Aid Highway Performance Measures Rulemaking (This NPRM)

a. Propose and define national measures for the condition of NHS pavements and bridges
b. State and MPO target establishment requirements for the Federal-aid highway program
c. Determination of significant progress toward the achievement of targets for NHPP
d. Performance progress reporting requirements and timing
e. Minimum levels for the condition of pavement on the Interstate System

3. Third Federal-Aid Highway Performance Measures Rulemaking (RIN: 2125–AF54)

a. Propose and define national measures for the remaining areas under 23 U.S.C. 150(c) that require measures and are not discussed under the first and second measure rules, which includes the following: National Performance Measures for Performance of the Interstate System and non-Interstate National Highway System; CMAQ—Traffic Congestion; CMAQ—On-Road Mobile Source Emissions; and Freight Movement on the Interstate System
b. State and MPO target establishment requirements for the Federal-aid highway program
c. Performance progress reporting requirements and timing
d. Provide a summary of all three performance measure proposed rules

4. Update to the Metropolitan and Statewide Planning Regulations (RINs: 2125–AF52, 2132–AB10) [10]

a. Supporting national goals in the scope of the planning process
b. Coordination between States, MPOs, and public transportation providers in selecting FHWA and public transportation performance targets
c. Integration of elements in other performance-based plans into the metropolitan and statewide planning process
d. Discussion in Metropolitan and Statewide Transportation Improvement Programs documenting how the programs are designed to achieve targets
e. New performance reporting requirements in the Metropolitan transportation plan

5. Updates to the Highway Safety Improvement Program Regulations (2125–AF56) [11]

a. Integration of performance measures and targets into the HSIP
b. Strategic Highway Safety Plan (SHSP) updates
c. Establishment of Model Inventory of Roadway Element—Fundamental Data Elements
d. HSIP reporting requirements

6. Federal-Aid Highway Asset Management Plan Rule (2125–AF57)

a. Contents of asset management plan
b. Certification of process to develop plan
c. Transition period to develop plan
d. Minimum standards for pavement and bridge management systems

7. Transit State of Good Repair Rule (RIN: 2132–AB07) [12]

a. Define state of good repair and establish measures

[7] Bridge Preservation Guidance (FHWA 2011) *http://www.fhwa.dot.gov/bridge/preservation/guide/guide.pdf*

[8] *http://www.fhwa.dot.gov/map21/qandas/qapm.cfm*

[9] The NPRM was published on March 11, 2014 at 79 FR 13846.

[10] The NPRM was published on June 2, 2014 at 79 FR 31784.

[11] The NPRM was published on March 28, 2014 at 79 FR 17464.

[12] The FTA published their Advance Notice of Proposed Rulemaking (ANPRM) that incorporated

Continued

b. Transit asset management plan content and reporting requirements
c. Target establishment requirements for public transportation agencies and MPOs

8. Transit Safety Plan Rule (RIN: 2132–AB20) [13]

a. Define transit safety standards
b. Transit safety plan content and reporting requirements

9. Highway Safety Program Grants Rule (RIN: 2127–AL30, 2127–AL29) [14]

a. Highway safety plan contents, including establishment of performance measures, targets, and reporting requirements
b. Review and approval of highway safety plans

Organization of MAP–21 Performance-Related Provisions

The FHWA organized the many performance-related provisions within MAP–21 into six elements as defined below:

• National Goals—Goals or program purpose established in MAP–21 to focus the Federal-aid highway program on specific areas of performance.

• Measures—Establishment of measures by FHWA to assess performance and condition in order to carry out performance-based Federal-aid highway programs.

• Targets—Establishment of targets by recipients of Federal-aid highway funding for each of the measures to document expectations of future performance.

• Plans—Development of strategic and/or tactical plans by recipients of Federal funding to identify strategies and investments that will address performance needs.

• Reports—Development of reports by recipients of Federal funding that would document progress toward the achievement of targets, including the effectiveness of Federal-aid highway investments.

• Accountability—Requirements developed by FHWA for recipients of Federal funding to use to achieve or make significant progress toward achieving targets established for performance.

The following provides a summary of MAP–21 provisions, as they relate to the six elements listed above, including a reference to other related rulemakings that should be considered for a more comprehensive view of MAP–21 performance management implementation.

A. National Goals

The MAP–21 section 1203 establishes national goals to focus the Federal-aid highway program. The following national goals are codified at 23 U.S.C. 150(b):

• Safety—To achieve a significant reduction in traffic fatalities and serious injuries on all public roads, including non-State owned public roads and roads on tribal lands.

• Infrastructure condition—To maintain the highway infrastructure asset system in a state of good repair.

• Congestion reduction—To achieve a significant reduction in congestion on the NHS.

• System reliability—To improve the efficiency of the surface transportation system.

• Freight movement and economic vitality—To improve the national freight network, strengthen the ability of rural communities to access national and international trade markets, and support regional economic development.

• Environmental sustainability—To enhance the performance of the transportation system while protecting and enhancing the natural environment.

• Reduced project delivery delays—To reduce project costs, promote jobs and the economy, and expedite the movement of people and goods by accelerating project completion through eliminating delays in the project development and delivery process, including reducing regulatory burdens and improving agencies' work practices.

These national goals would be largely supported through the Metropolitan and Statewide planning process, which is discussed under a separate rulemaking (2125–AF52) to update the Metropolitan and Statewide Planning Regulations at 23 CFR part 450.

B. Measures

The MAP–21 requires the establishment of performance measures, in consultation with State DOTs, MPOs, and other stakeholders, that would do the following:

• Carry out the NHPP and assess the condition of pavements on the Interstate System and the NHS (excluding the Interstate System), the condition of bridges on the NHS, and performance of the Interstate System and NHS (excluding the Interstate System);

• carry out the HSIP and assess serious injuries and fatalities per VMT and the number of serious injuries and fatalities;

• carry out the CMAQ Program and assess traffic congestion and on-road mobile source emissions; and

• assess freight movement on the Interstate System.

The MAP–21 also requires the Secretary to establish the data elements necessary to collect and maintain standardized data to carry out a performance-based approach.[15]

The FHWA would issue three NPRMs in sequence to propose the measures for the areas listed above. The first NPRM focused on the performance measures, for the purpose of carrying out the HSIP, to assess the number of serious injuries and fatalities and serious injuries and fatalities per VMT. This current NPRM focuses on the measures to assess the condition of pavements and bridges, and a third NPRM will be issued to propose the remaining areas under 23 U.S.C. 150(c) that require the establishment of measures. The FHWA anticipates issuing these three rulemakings in staggered sequence. The FHWA proposes to establish one common effective date for all three final rules for these performance measures, but we seek comment from the public on what would be an appropriate effective date. Additional information on the approach to establish performance measures for the Federal-aid highway program can be found on FHWA's Transportation Performance Management Web site.[16]

The MAP–21 also requires FHWA to establish minimum levels for the condition of pavements for the Interstate System necessary to carry out the NHPP, which is proposed in this rulemaking.[17] In addition, MAP–21 also requires FHWA to establish minimum standards for State DOTs to use in developing and operating bridge and pavement management systems, which FHWA would propose in a separate rulemaking to establish an Asset Management Plan (RIN 2125–AF57) for the NHS.[18]

Separate sections of MAP–21 require the establishment of additional measures to assess public transportation performance.[19] These measures, which would be used to monitor the state of good repair of transit facilities and to establish transit safety criteria, would be addressed in two separate rulemakings, led by FTA.

items 7 and 8, on October 3, 2013. This ANPRM may be found at: *http://www.gpo.gov/fdsys/pkg/FR-2013-10-03/pdf/2013-23921.pdf.*

[13] Ibid.

[14] The National Highway Traffic Safety Administration published their Interim Final Rule (IFR) on January 23, 2013. This IFR may be found at: *http://www.gpo.gov/fdsys/pkg/FR-2013-01-23/pdf/2013-00682.pdf.*

[15] 23 U.S.C. 150(c)(1).

[16] *http://www.fhwa.dot.gov/tpm/about/schedule.cfm.*

[17] 23 U.S.C. 150(c)(3)(A)(iii).

[18] 23 U.S.C. 150(c)(3)(A)(i).

[19] 49 U.S.C. 5326 and 49 U.S.C. 5329.

In regard to the Federal Lands Transportation Program, FHWA anticipates working with eligible Federal entities to establish performance measures.

C. Targets

The MAP–21 requires State DOTs to establish performance targets reflecting measures established for the Federal-aid highway program [20] and requires MPOs to establish performance targets for these measures where applicable.[21] The first NPRM proposed the process for State DOTs and MPOs to follow in the establishment of safety performance targets. This NPRM and the third Federal-aid highway measure NPRM discuss similar target establishment requirements for State DOTs and MPOs as they relate to the measures discussed in the respective proposed rules. Additionally, State DOTs and MPOs are required to coordinate when selecting targets for the areas specified under 23 U.S.C. 150(c) in order to ensure consistency in the establishment of targets, to the maximum extent practical.[22] A separate rulemaking to update the Metropolitan and Statewide Planning Regulations (RIN 2125–AF52) at 23 CFR part 450 discusses this coordination requirement.

Further, MAP–21 requires State Highway Safety Offices to establish targets for 10 core highway safety program measures in the HSP, which NHTSA has implemented through an Interim Final Rule,[23] and for recipients of public transportation Federal funding and MPOs to establish state of good repair and safety targets.[24] Discussions on these target establishment requirements are not included in this NPRM. Rather, DOT will discuss those target establishment requirements in the subsequent rulemakings to implement these respective provisions.

D. Plans

A number of provisions within MAP–21 require State DOTs and MPOs to develop plans that provide strategic direction for addressing performance needs. For the Federal-aid highway program these provisions require: State DOTs to develop a NHS Asset Management Plan; [25] State DOTs to update their SHSP; [26] MPOs serving a large TMA in areas of non-attainment or maintenance to develop a CMAQ Performance Plan; [27] MPOs to include a System Performance Report in the Metropolitan Transportation Plan; [28] and State DOTs and MPOs to include a discussion, to the maximum extent practical, in their Transportation Improvement Program as to how the program would achieve the performance targets they have established for the area.[29] In addition, State DOTs are encouraged to develop a State Freight Plan to document planned activities and investments with respect to freight.[30] This rulemaking does not discuss any requirements to develop or use plans. Rather, a discussion on the development and use of these plans would be included in the respective rulemakings to implement these provisions. More information on the required plans and the actions to implement the statutory provisions related to plans can be found on FHWA's MAP–21 Web site.[31]

E. Reports

The MAP–21 section 1203 requires State DOTs to submit biennial reports to FHWA on the condition and performance of the NHS, the effectiveness of the investment strategy documented in the State DOT's asset management plan for the NHS, progress in achieving targets, and ways in which the State DOT is addressing congestion at freight bottlenecks.[32] The FHWA proposed in the first NPRM that safety progress be reported by State DOTs through the HSIP annual report and not in the biennial report required under 23 U.S.C. 150(e). This NPRM, under subpart A, discusses the 23 U.S.C. 150(e) biennial reporting requirement. The 23 U.S.C. 150(e) biennial reporting requirement would apply to all of the non-safety measures for the Federal-aid highway program (*i.e.,* the measures proposed in this NPRM and in the third Performance Measures NPRM).

Additional progress reporting requirements are required under the CMAQ Program, Metropolitan transportation planning, elements of the Public Transportation Act of 2012, and the Motor Vehicle and Highway Safety Improvement Act of 2012. Detailed discussions on these reporting requirements are not included in this NPRM. Also, State DOTs should include a system performance report in their statewide transportation plan. These reporting provisions are discussed in separate rulemakings and guidance and are not discussed in this rulemaking.

F. Accountability

Two provisions within MAP–21, specifically 23 U.S.C. 119(e)(7) under the NHPP and 23 U.S.C. 148(i) under the HSIP, require the State DOT to undertake actions if significant progress is not made toward the achievement of State DOT targets established for these respective programs. For the NHPP, if a State DOT does not achieve or make significant progress toward the achievement of its NHS performance targets for two consecutive biennial reports, then the State DOT must document in its next report the actions it would take to achieve the targets.[33] The proposed implementation of this provision is covered in subpart A of this NPRM. For the HSIP, if a State DOT does not achieve or make significant progress toward the achievement of its HSIP safety targets, then the State DOT must dedicate a specified amount of obligation limitation to safety projects and prepare an annual implementation plan.[34] The first performance measures NPRM discussed this provision.

In addition, MAP–21 requires that each State DOT maintain a minimum condition level for Interstate System pavement and NHS bridge conditions. If a State DOT falls below either standard, then the State DOT must spend a specified portion of its funds for that purpose until the minimum standard is exceeded.[35] This NPRM discusses this provision.

The FHWA recognizes that there is a limit to the direct impact that State DOTs can have on performance outcomes within the State and that State DOTs need to consider this uncertainty in their establishment of targets. The FHWA encourages State DOTs to consult with relevant entities (*e.g.,* MPOs, local transportation agencies, Federal Land Management Agencies, tribal governments) as State DOTs establish targets, so they can better identify and consider factors outside of their direct control that could impact future condition/performance.

Further, MAP–21 includes special safety rules to require each State DOT to maintain or improve safety performance on high risk rural roads and for older drivers and pedestrians.[36] If the State

[20] 23 U.S.C. 150(d).

[21] 23 U.S.C. 134(h)(2)(B).

[22] 23 U.S.C. 134(h)(2), 23 U.S.C. 135(d)(2), 49 U.S.C. 5303(h)(2), and 49 U.S.C. 5304(d)(2).

[23] 23 U.S.C. 402(k); Uniform Procedures for State Highway Safety Grant Programs, Interim final rule, 78 FR 4986 (January 23, 2013) (to be codified at 23 CFR part 1200).

[24] 49 U.S.C. 5326(c) and 5329.

[25] 23 U.S.C. 119(e).

[26] 23 U.S.C. 148(d).

[27] 23 U.S.C. 149(l).

[28] 23 U.S.C. 134(i)(2)(C).

[29] 23 U.S.C. 134(j)(2)(D) and 23 U.S.C. 135(g)(4).

[30] MAP–21 Section 1118.

[31] *http://www.fhwa.dot.gov/map21/qandas/qapm.cfm.*

[32] 23 U.S.C. 150(e).

[33] 23 U.S.C. 119(e)(7).

[34] 23 U.S.C. 148(i).

[35] 23 U.S.C. 119(f).

[36] 23 U.S.C. 148(g).

DOT does not meet these special rules, which contain minimum performance standards, then it must dedicate a portion of HSIP funding (in the case of the high risk rural road special rule) or document in their SHSP actions they intend to take to improve performance (in the case of the older driver special rule). Guidance on how FHWA would administer these two special rules is provided on the FHWA MAP–21 Web site.

Implementation of MAP–21 Performance Requirements

The FHWA will implement the performance requirements within section 1203 of MAP–21 in a manner that results in a transformation of the Federal-aid highway program so that the program focuses on national goals, provides for a greater level of accountability and transparency, and provides a means for the most efficient investment of Federal transportation funds. The FHWA plans to implement these new requirements in a manner that will provide Federal-aid highway fund recipients the greatest opportunity to fully embrace a performance-based approach to transportation investment decisionmaking that does not hinder performance improvement. In this regard, FHWA carefully considered the following principles in the development of proposed regulations for national performance measures under 23 U.S.C. 150(c):

- Provide for a National Focus—focus the performance requirements on outcomes that can be reported at a national level.
- Minimize the Number of Measures—identify only the most necessary measures that would be required for target establishment and progress reporting. Limit the number of measures to one or no more than two per area specified under 23 U.S.C. 150(c).
- Ensure for Consistency—provide a sufficient level of consistency, nationally, in the establishment of measures, the process to establish targets and report expectations, and the approach to assess progress so that transportation performance can be presented in a credible manner at a national level.
- Phase in Requirements—allow for sufficient time to comply with new requirements and consider approaches to phase in new approaches to measuring, target establishment, and reporting performance.
- Increase Accountability and Transparency—consider an approach that would provide the public and decision makers a better understanding of Federal transportation investment returns and needs.
- Consider Risk—recognize that risks in the target establishment process are inherent and that many factors, outside the control of those that would be required to establish targets, can impact performance.
- Understand that Priorities Differ—recognize that targets need to be established across a wide range of performance areas and that performance trade-offs would need to be made to establish priorities, which would be influenced by local and regional needs.
- Recognize Fiscal Constraints—provide for an approach that encourages the optimal investment of Federal funds to maximize performance but recognize that, when operating with scarce resources, performance cannot always be improved.
- Provide for Flexibility—recognize that the MAP–21 requirements are the first steps that will transform the Federal-aid highway program to a performance-based program and that State DOTs, MPOs, and other stakeholders would be learning a great deal as implementation occurs.

The FHWA considered these principles in this NPRM and encourages comments on the extent to which this approach to performance measures, set forth in this NPRM, supports the principles discussed above.

Federal Technical Assistance

The FHWA is committed to providing stewardship to State DOTs and MPOs assisting them as they take steps to manage and improve the performance of the highway system. As a Federal agency, FHWA is in a unique position to utilize resources at a national level to capture and share strategies that can improve performance. The FHWA is prepared to dedicate resources at the national level to provide on-site assistance, technical tools and guidance to State DOTs and MPOs to assist them in making more effective investment decisions. It is FHWA's intent to be engaged at a local and national level to provide resources and assistance from the onset to identify opportunities to improve performance and to increase the chances for full State DOT and MPO compliance of new performance related regulations. The FHWA technical assistance will include activities such as conducting national research studies, developing analytical modeling tools, identifying and promoting best practices, preparing guidance materials, and developing data quality assurance tools. The FHWA encourages comments on how it can help maximize opportunities for successful implementation.

V. Performance Management Measure Analysis

In consultation with State DOTs, MPOs and other stakeholders, FHWA selected measures for this proposed rule considered to be the best alternatives to carry out the pavement and bridge condition related provisions of the NHPP and to use to assess pavement and bridge condition. The FHWA evaluated the selected measures, using a common methodology, to identify gaps that could impact successful implementation of proposed performance measures. This section discusses the basis for selecting the proposed performance measures and FHWA's identification of potential implementation gaps.

A. Selection of National Performance Management Measures for the NHPP: Pavement and Bridge

The FHWA considered views from the following sources when developing pavement and bridge measures to carry out the NHPP:

- Knowledge of technical experts within DOT on the current state of practice to monitor highway pavement and bridge condition;
- Information provided by external stakeholders received directly or captured as part of organized stakeholder listening sessions;
- Information provided by external stakeholders received indirectly through informal contact such as telephone calls, email or letters; and
- Measures that have been recommended and documented in nationally recognized reports such as the assessment of measurement readiness documented in the final report for NCHRP 20–24(37)G, ''Technical Guidance for Deploying National Level Performance Measurements.''

Pavement Condition Measure

Since 2010, through HPMS, State DOTs have submitted rutting, Cracking_Percent, International Roughness Index (IRI), and faulting data metrics.[37] The FHWA's ''Conditions and Performance Report'' and ''Highway Statistics Series'' have used pavement roughness, with the IRI as a metric, as the basis for its pavement conditions.

Based on FHWA's research, most State DOTs use a common group of pavement metrics (*e.g.,* pavement

[37] Cracking_Percent refers to the data metric in HPMS and is used as one of the metrics for determining the condition of pavements for the performance measure.

roughness, percentage of pavement that is rutted, percentage of pavement that is cracked, and the amount of misalignment between concrete pavement slabs), to report on and manage the condition of pavements in their State. There is not currently a nationally accepted method for assessing pavement condition using multiple pavement condition metrics (*e.g.,* IRI, rutting, Cracking_Percent, faulting) that most State DOTs use. A survey conducted as part of the 2009 National Cooperative Highway Research Program (NCHRP) Synthesis 401 study [38] revealed that 98 percent of State DOTs collect distress data (*e.g.,* faulting, cracking) and 95 percent collect roughness data to monitor network level pavement conditions. Similarly, an assessment of pavement management practices conducted by FHWA indicated that, for the NHS, all State DOTs monitor roughness and rutting, 94 percent monitor Cracking_Percent, 95 percent monitor faulting (with concrete surfaced pavements), and 31 percent monitor structural capacity.

The FHWA selected these metrics for calculation of the performance measures to assess pavement conditions in this rulemaking. In support of the selection of these metrics, FHWA evaluated their use in highway pavement investment decisions by State DOTs. The Texas Transportation Institute conducted a study, called the ''Pavement Score Synthesis.'' The synthesis study indicated that nearly all State DOTs use a combination of pavement condition attributes and a variety of methods and procedures to rate the condition of pavements. Most of these methods and procedures included some aspect of pavement roughness and at least one other pavement condition metric. A recently completed NCHRP project [39] included a detailed review of data collected and reported by State DOTs on pavement condition in their State pavement management system as compared to the data they report in the HPMS. This project included a national survey that was provided to all State DOTs and a detailed assessment using data collected and reported from eight State DOTs. The project's report indicated that assessments of pavement condition using State DOT methods of qualifying good, fair, and poor conditions were noticeably different from an approach based solely on IRI conditions as reported in the HPMS.

In developing its proposed measure, FHWA considered the use of existing methods such as the Pavement Condition Index (PCI) developed by the Army Corps of Engineers, the RSL concept using prediction models developed for the Mechanistic-Empirical Design Guide for New and Rehabilitated Pavement Structures, under NCHRP 1–37A [40], and State DOT-developed methods to calculate a pavement condition rating. The FHWA found that no single existing method was used predominantly enough to be considered as a national standard. In addition, existing methods, such as the PCI, were too challenging to implement nationally due to the burden and time associated with introducing pavement condition metrics that are not currently reported at a national level through a system like HPMS.

The FHWA has been working for the past several years in consultation with State DOTs to evaluate approaches that could more completely assess pavement condition at a national level. Based on these efforts, FHWA proposes to establish measures to assess pavement condition that meet the following criteria:

- Consider more than roughness.
- Utilize pavement condition attributes currently reported at a national level.
- Utilize pavement condition attributes where data collection and reporting standards exist today.
- Result in an assessment approach that is consistent with typical conceptual approaches used today by State DOTs to assess condition.
- Consider an approach that can be implemented so that State DOTs can establish targets within a 12-month time period after FHWA establishes the performance measures without introducing a considerable burden on State DOTs.

The FHWA proposes in this NPRM a measure for State DOTs to use to assess pavement condition that satisfies the criteria above and is based on data within the HPMS, including: IRI, rutting for asphalt surfaced pavements, faulting for jointed concrete surfaced pavements, and Cracking_Percent. The FHWA proposes pavement condition measures that would reflect the predominant condition represented by each of these HPMS data elements.

The four proposed measures to assess pavement condition are: (1) Percentage of pavements on the Interstate System in Good condition; (2) Percentage of pavements on the Interstate System in Poor condition; (3) Percentage of pavements on the NHS (excluding the Interstate System) in Good condition; and (4) a Percentage of pavements on the NHS (excluding the Interstate System) in Poor condition.

The FHWA is proposing measures to represent both the percentage of Good pavements and the percentage of Poor pavements that would support sound asset management practices. The FHWA intends to implement a condition measurement approach that will recognize the need to both preserve Good and Fair conditions and improve Poor conditions. The FHWA believes that a measurement approach that focused only on increasing Good conditions or only on reducing Poor conditions may result in practices that would not optimize the benefits of infrastructure investments. This same approach is proposed for the bridge condition measures as discussed in the next section.

Bridge Condition Measure

The FHWA, using data from the NBI, monitors bridge conditions in the United States. This database was established in 1972 and State DOTs have been required to submit annual reports to FHWA since 1978. The NBI is a highly consistent set of national data for evaluating the condition and performance of bridges. The National Bridge Inspection Standards (NBIS) in 23 CFR part 650 contribute to this consistency. The NBIS established the national standards for the proper and uniform inspection and evaluation of highway bridges. The NBIS include the specified methods by which inspections are to be carried out, qualifications for those charged with carrying out inspections, and certain bridge data that is to be collected and retained for collection by FHWA. For these reasons, FHWA considers the NBI and its data the definitive source for national bridge information and the most appropriate metric for bridge condition measures.

The ''Improving FHWA's Ability to Assess Highway Infrastructure Health Pilot Study Report'' [41] evaluated different methods to assign bridge condition using NBI data as a metric for defining a Good, Fair, or Poor classification. For this study, the NBI

[38] Flintsch G., McGhee K., NCHRP Synthesis 401, ''Quality Management of Pavement Condition Data Collection'', 2009.

[39] Zimmerman, K., Smadi, O. NCHRP 20–24(82), ''Increasing Consistency in HPMS Pavement Data,'' 2013.

[40] ''The Mechanistic-Empirical Design Guide for New and Rehabilitated Pavement Structures,'' NCHRP 1–37A, 2004, *http://onlinepubs.trb.org/onlinepubs/archive/mepdg/part_12_cover_ack_toc.pdf.*

[41] Guerre, et al., FHWA–HIF–12–049, ''Improving FHWA's Ability to Assess Highway Infrastructure Health Pilot Study Report,'' 2012 *http://www.fhwa.dot.gov/asset/pubs/hif12049/hif12049.pdf.*

database was selected as the logical data source because of the consistency of its representation of over 40 years of collected data, and its use by nearly every State DOT as the current basis for their bridge decisionmaking. The study discussed and evaluated four different weighted average methods and one minimum condition rating method. The four weighted average methods consisted of calculating a measure of structural adequacy based on a weighted average of deck, superstructure, and sub-structure condition ratings of a bridge. The minimum condition rating method calculated a measure of structural adequacy based on the lowest condition rating of deck, superstructure, and sub-structure of a bridge.

Findings of the study concluded that for the Interstate System:

- Percentages of bridges classified as Good, Fair, or Poor were consistent for the four different weighted average methods and the minimum condition rating method with little variation;
- the minimum condition rating method resulted in the highest percentage of bridges in Poor condition;
- percentages of bridges classified as Good, Fair, or Poor based on the four weighted average methods were not sensitive to the weights; and
- bridge deck conditions alone are typically not the driving factor in the Good, Fair, or Poor classifications.

The FHWA conducted an additional assessment of the different methods and observed that the magnitude in differences between condition ratings for individual NBI items was somewhat nullified when a final average or weighted average method was employed. The ''Improving FHWA's Ability to Assess Highway Infrastructure Health Pilot Study Report'' made a similar observation. This masking or obscuring of possible poor bridge conditions is a major concern with these methods. Although these methods could be further refined to possibly resolve this problem, the development, subjectivity, and complexity of such methods makes them less desirable than the simple minimum condition rating method, particularly when analyses indicate that a refined weighted method would result in the same general classification as the minimum condition rating method.

The FHWA proposes to establish two bridge performance measures using a classification system of Good, Fair, and Poor. These are based on an assessment of bridge condition data from the NBI. The measures would reflect the lowest component condition rating for the bridge.[42] The FHWA further proposes to weight this classification by the respective deck area of the bridge and express condition totals as a percentage of the total bridge deck area in a State.

The two proposed performance measures for assessing bridge condition are: (1) Percentage of NHS Bridges Classified as in Good Condition; and (2) Percentage of NHS Bridges Classified as in Poor Condition. These proposed performance measures are based on the assessment of condition ratings for the following NBI Items: 58—Deck, 59—Superstructure, 60—Substructure, and 62—Culverts.

B. Assessment of Selected National Performance Management Measures for the NHPP: Pavement and Bridge

The FHWA used a common methodology of 12 criteria to assess the appropriateness of the measure for national use and the readiness to implement the performance measure accurately and reliably. As a result of its assessment, FHWA assigned one of the following three ratings for each criterion.

- Green—Criterion is fully met for the candidate measure
- Yellow—Criterion is partially met for the candidate measure and work is underway to fully meet the criterion
- Red—Criterion is not fully met or no work is underway or planned that would allow the criterion to be met

The FHWA used the results of this assessment to identify gaps that FHWA could address through this rulemaking to improve the effectiveness of the measures for State DOTs and MPOs to use to assess pavement and bridge conditions. The rulemaking docket contains a description of the methodology used for this assessment.

Pavement Condition Performance Management Measures

The following four pavement performance measures for assessing condition proposed by FHWA are calculated from data from the HPMS: (1) Percentage of pavements on the Interstate System in Good condition; (2) Percentage of pavements on the Interstate System in Poor condition; (3) Percentage of pavements on the NHS (excluding the Interstate System) in Good condition; and (4) Percentage of pavements on the NHS (excluding the Interstate System) in Poor condition. The assessment process described earlier in this section evaluates these pavement performance measures for assessing conditions based on existing state-of-the-practice. Table 1 provides a summary of this assessment.

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[42] While FHWA proposes bridge condition measures that would reflect the lowest condition level represented by different bridge elements, the proposed pavement condition measures would reflect the predominant condition represented by certain HPMS data elements. The FHWA is proposing these differing approaches for pavement and bridges primarily due to the need to minimize safety risks associated with bridges. Additional information is provided in the Section-by-Section discussion to describe the differences in the methods to determine pavement and bridge conditions.

Table 1. NHPP Pavements Condition Measure Analysis

Assessment Factor/Criterion	*Percentage of Interstate System in Good Condition*	*Percentage of Interstate System in Poor Condition*	*Percentage of* non-*Interstate NHS in Good Condition*	*Percentage of* non-*Interstate NHS in Poor Condition*
A1) Is the measure focused on comprehensive performance outcomes?	G	G	G	G
A2) Has the measure been developed in partnership with key stakeholders?	G	G	G	G
A3) Is the measure maintainable to accommodate changes?	G	G	Y	Y
A4) Can the measure be used to support investment decisions, policy making and target establishment?	G	G	G	G
A5) Can the measures be used to analyze performance trends?	G	G	G	G
A6) Has the feasibility and practicality to collect, store, and report data in support of the measures been considered?	G	G	Y	Y
B1) Timeliness	Y	Y	Y	Y
B2) Consistency	R	R	R	R
B3) Completeness	Y	Y	R	R
B4) Accuracy	Y	Y	R	R
B5) Accessibility	G	G	G	G
B6) Data Integration	G	G	G	G

Legend: G=Green Y= Yellow R=Red A=Appropriateness B=Readiness

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The performance measures identified in this NPRM are considered to be ready for use when all of the criteria are rated Green. The remaining measures require additional analysis before they can be used on a regular basis for measuring the performance of the transportation system. The proposal outlined in this NPRM attempts to address some of the gaps that exist today for the yellow and red criteria so that, as a result of the implementation of these new requirements, the measures would result in an improved assessment rating and thereby better support national programs. The FHWA proposal addresses the gaps that exist today primarily through improvement of data collection techniques, requiring the use of established AASHTO Standards, establishing a standard method of calculation, and requiring data quality management programs in every State DOT. When establishing the proposed pavement condition measures, FHWA considered the following with respect to the criteria above:

- Criterion A3—consider data standards that allow for new data

collection methods as technologies improve. Consider an approach that allows for pavement metrics to change in the future as data standards are updated and improved.

• Criterion A4—recognize that the individual pavement metrics are not typically used to drive decisionmaking. Consider how the four metrics can be used collectively to develop a pavement measure that is more closely tied to decisionmaking.

• Criterion A6—consider changes to the current requirements to collect, store, and report data to the HPMS to support the proposed pavement condition measure.

• Criterion B1—recognize the time lag of data available in national data sources versus the availability of data in State-maintained sources in requirements associated with proposed pavement measures, target establishment, and evaluation of progress.

• Criteria B2 and B4—consider an approach that utilizes data collection standards and data reporting requirements that would improve consistency and accuracy in application across the country and recognize that these improvements can take time to implement. Recognize that State DOTs have been collecting and reporting pavement condition metrics for many years and that the standards, frequency, and formats have changed during this time.

• Criterion B3—consider an approach that improves the completeness of data coverage in the HPMS and recognize that State data submissions often have not represented the full extent of the NHS.

• Criterion B6—recognize the essential need for a national data source for pavement condition and that implementing minor adjustments to existing State DOT methodologies would facilitate the creation of such a national data source at a relatively low cost. Furthermore, many States already have technology, such as Geographic information Systems or Enterprise Resource Systems that can integrate data from various sources to support decisionmaking on a larger scale to aid with asset management and performance reporting programs.

Bridge Condition Performance Management Measures

The FHWA proposes two performance measures for assessing bridge condition: (1) Percentage of Deck Area of NHS Bridges Classified as in Good condition; and (2) Percentage of Deck Area of NHS Bridges Classified as in Poor condition. This data includes the following NBI items: 58—Deck, 59—Superstructure, 60—Substructure, and 62—Culverts. These bridge performance measures for assessing condition attributes were evaluated using the, existing state-of-the-practice, assessment process described in Section A.

All of the criteria, when applied to the proposed bridge performance measures, can be fully met largely because FHWA and stakeholders recognize that the NBI is, and has been for decades, the most consistent and comprehensive set of national data for evaluating the condition of bridges. Because the NBIS contains a consistent set of required standards for State DOTs to use for the proper inspection and evaluation of bridges for safety and serviceability, its use results in consistent and accurate data that goes into the NBI. Nearly every State DOT uses the NBI in some form as the basis for their current bridge decisionmaking. The calculation of the performance measures for assessing bridge condition provides flexibility to accommodate future changes such as the use of element level bridge data. In addition, the proposed measures are consistent with the feedback that FHWA has received from stakeholders. Therefore, FHWA considers the proposed bridge performance measures ready for use.

In this NPRM, FHWA is proposing the establishment of measures to assess pavement and bridge conditions. These measures would be used by State DOTs and MPOs to establish targets, develop plans, and report on progress. As discussed in the background of this proposal, FHWA is conducting a related rulemaking to establish requirements for the development of Asset Management Plans; this NPRM includes proposed minimum standards for State DOTs to use to develop and operate pavement and bridge management systems (RIN 2125–AF56). State DOTs use these systems to develop investment strategies for managing the conditions of their pavement and bridge networks. Further, FHWA has issued a proposed rule to update 23 CFR 450 to integrate performance in the scope of the metropolitan and statewide planning process (RIN 2125–AF52, 2132–AB10). Collectively, these three rulemakings discuss how the proposed measures would be used by State DOTs and MPOs to assess and manage pavement and bridge conditions.

Transportation decision makers consider a range of factors that ultimately influence project level investments decisions and typically reflect the transportation priorities for a local area or region. For example, a State DOT may, as a priority, focus their decisionmaking on investments that first address the sections of highways with higher traffic volumes or fatalities. With the exception of the minimum condition requirements for Interstate pavements and NHS bridges, FHWA is not proposing an implementation approach in this NPRM that would suggest how a State DOT or MPO would prioritize investment decisions. State DOTs and MPOs consider their priorities through the planning process.

The requirement of reporting and assessing targets would not necessarily dictate how a State DOT or MPO should prioritize their decision-making in establishing the targets required by 23 U.S.C. 150(d). A State DOT or MPO may consider a number of factors, such as funding availability and local transportation priorities, that could impact the targets they ultimately establish for pavement and bridge system conditions. For this reason, as stated in the discussion sections for §§ 490.105 and 490.109, the State DOT or MPO may elect to establish targets that represent a decline in pavement or bridge system conditions. Once established, the State DOT and MPO would use their targets to program investments by selecting sections of highway that would be treated to preserve or improve condition. The proposed regulation allows a State DOT or MPO to make decisions on the location of project investments. The FHWA encourages State DOTs and MPOs to select projects that will maximize the investment returns in improving system conditions.

The measures that are being proposed in this rulemaking are intended to summarize the condition based on the physical attributes of the pavement and bridge facility. Consequently, under this proposal a pavement or bridge would be rated in the same condition (Good, Fair, or Poor) regardless of the facility's location; functional class; level of use; environment; or impact the facility may have on other aspects of transportation performance, such as safety and traffic congestion. The FHWA is seeking comment from the public on whether the measures should reflect additional factors that could influence decision making, such as facility location, functional class, level of use, environment, or impact it may have on other aspects of transportation performance.

VI. Section-by-Section Discussion of the General Information and Proposed National Performance Management Measures for the NHPP: Pavement and Bridge

This Section-by-Section discusses how the proposed regulations address MAP–21's charge to establish national performance measures for State DOTs and MPOs to assess the condition of pavements and bridges to carry out the NHPP. The common aspects of the proposed rulemaking, related to reporting, significant progress determination, and target development, are discussed in subpart A: General Information. For the bridge and pavement performance measures, the proposed rule is separated by asset.[43] Subpart C addresses the Pavement performance measures and subpart D addresses the Bridge performance measures. Subparts C and D provide the requirements for the Pavement and Bridge performance measures, including methodologies for data collection, data requirements, a calculation process for evaluating condition, establishment or identification of minimal level of condition, and penalties for not maintaining condition. The Section-by-Section discussion also addresses procedural discrepancies in current data collection and reporting and attempts to update them utilizing the latest research and state-of-the-practice experience to provide consistent national performance measures.

A. Section-by-Section Discussion for the Subpart A: General Information, Target establishment, reporting, and NHPP Significant Progress Determination

Discussion of § 490.101 General Definitions

The FHWA proposes a section of general definitions. The first NPRM regarding the establishment of measures for carrying out the HSIP included several definitions (HPMS, measure, metric, non-urbanized area and target) that are repeated in this NPRM to provide clarity in the implementation of the proposed performance measures.

The FHWA proposes to define ''Full Extent'' to delineate data collection methods that utilize a sampling approach versus those that use a continuous form of data collection.

The FHWA proposes to include a definition for ''Highway Performance Monitoring System (HPMS)'' because it will be one of the data sources used in establishing a measure and establishing a target. The HPMS is an FHWA maintained, national level highway information system that includes State DOT-submitted data on the extent, condition, performance, use and operating characteristics of the Nation's highways. The HPMS database was jointly developed and implemented by FHWA and State DOTs beginning in 1974 and it is a continuous data collection system serving as the primary source of information for the Federal government about the Nation's highway system. Additionally, the data in the HPMS is used for the analysis of highway system condition, performance, and investment needs that make up the biennial Condition and Performance Reports to Congress. These Reports are used by the Congress in establishing both authorization and appropriation legislation, activities that ultimately determine the scope and size of the Federal-aid highway program, and determine the level of Federal highway taxation. Increasingly, State DOTs, as well as the MPOs, have utilized the HPMS as they have addressed a wide variety of concerns about their highway systems.[44] Numerous State DOTs and the MPOs use HPMS data and its analytical capabilities for supporting their condition/performance assessment, investment requirement analysis, strategic and state planning efforts, etc.

The FHWA proposes to define ''mainline highway'' to limit the extent of the highway system to be included in the scope of the proposed pavement performance measures. The proposed definition for mainline highway includes the primary traveled portion of the roadway and excludes ramps, climbing lanes, turn lanes, auxiliary lanes, shoulders, and non-normally traveled pavement surfaces.

The FHWA proposes to include a definition for ''measure'' because establishing measures is a critical element of an overall performance management approach and it is important to have a common definition that the FHWA can use throughout the Part. To have a consistent definition for ''measure,'' the FHWA proposes to make a distinction between ''measure'' and ''metric.'' Hence, the FHWA proposes to define ''metric'' as a quantifiable indicator of performance or condition and to define ''measure'' as an expression based on a metric that is used to establish targets and to assess progress toward achieving the established targets.

The FHWA proposes a definition for ''National Bridge Inventory (NBI)'' because it is the data system that would be used to establish the measure for assessing the condition of the bridges on the NHS and the targets for the measure, and the assessment of progress toward achieving the established targets. This definition is based on the description of an inventory as required by 23 U.S.C. 144(b)(1) and 23 U.S.C. 144(h)(2)(D).

The FHWA proposes to include a definition for ''non-urbanized areas'' to provide clarity in the implementation of the provision in 23 U.S.C. 150(d)(2) that allows the State DOTs the option of selecting different targets for ''urbanized and rural areas.'' As written, the statute is silent regarding the small urban areas that fall between ''rural'' and ''urbanized'' areas. Instead of only giving the State DOTs the option of establishing targets for ''rural'' and ''urbanized'' areas, FHWA proposes to define ''non-urbanized'' areas to include both ''rural'' areas and the small urban areas that are larger than ''rural'' areas but do not meet the criteria of an ''urbanized area.'' This would then allow State DOTs to establish different targets for urbanized and non-urbanized areas. For target-establishment purposes, the FHWA believes that these small urban areas are best treated with the ''rural'' areas, as non-urbanized areas, because both of these areas do not have the same complexities that come with having the population and density of urbanized areas and are generally more rural in characteristic. In addition, neither of these areas are treated as MPOs in the transportation planning process or given the authority under MAP–21 to establish their own targets.

The FHWA proposes to include a definition for ''Performance period'' to establish a definitive period of time during which condition/performance would be measured, evaluated, and reported. The frequency of measurement and target establishment for the measures proposed to implement 23 U.S.C. 150 is not directly or indirectly defined in statute. The FHWA proposes a consistent time period of 4 calendar years that would be used to assess non-safety condition/performance. This time period aligns with the timing of the biennial performance reporting requirements under 23 U.S.C. 150(e) and is consistent with a typical planning cycle for most State DOTs and MPOs (*e.g.,* State and MPO transportation improvement programs are required to cover a 4-year period; metropolitan plans are also required to be updated every 4 or 5 years). The

[43] Subpart B, addressing the HSIP-related performance management measures, was proposed in the first Federal-aid Highway Performance Management Measures NPRM.

[44] Highway Performance Monitoring System, FHWA Office of Policy Information. *http://www.fhwa.dot.gov/policyinformation/hpms/nahpms.cfm.*

proposed calendar year basis is consistent with data reporting requirements currently in place to report pavement and bridge conditions, which are also done on a calendar year basis.

The FHWA proposes a definition for ''Performance period'' that would cover a 4-year period beginning on January 1 of the calendar year in which targets are due to FHWA, as discussed in § 490.105. Within a performance period, condition/performance would be measured and evaluated to: (1) Assess condition/performance with respect to baseline condition/performance; and (2) track progress toward the achievement of the target that represents the intended condition/performance level at the midpoint and at the end of that time period. The term ''Performance period'' applies to all proposed measures in this Part, except the proposed measures for the HSIP provided for in § 490.209 where FHWA proposed a 1 calendar year period as the basis for measurement, target establishment and reporting.

The FHWA proposes to include a definition for ''target'' to indicate how measures will be used for target establishment by State DOTs and MPOs to assess performance or condition.

Discussion of § 490.103 Data Requirements

The FHWA is proposing in § 490.103 data requirements that apply to more than one subpart in part 490. Additional proposed data requirements that are unique to each subpart are included and discussed in their respective subpart.

In this section, FHWA is proposing that State DOTs would submit urbanized area boundaries in accordance with the HPMS Field Manual. The boundaries of urbanized areas would be as identified through the most recent U.S. Decennial Census unless FHWA approves adjustments to the urbanized area, as submitted by State DOTs and allowed for under 23 U.S.C. 101(a)(34). These boundaries are to be reported to HPMS in the year the Baseline Performance Report is due, and are applicable to the entire performance period, regardless of whether or not FHWA approved adjustments to the urbanized area boundary during the performance period. The FHWA proposes that the State DOT submitted boundary information would be the authoritative data source for the target scope for the additional targets for urbanized and non-urbanized areas (§ 490.105(e)(3)), progress reporting (§ 490.107(b)), and IRI rating (§ 490.313(b)(1)) for the measures identified in § 490.105(c)(1)–(3). As discussed in § 490.105(d)(3), any changes in urbanized area boundaries during a performance period would not be accounted for until the following performance period. The FHWA-approved urbanized area data available in HPMS on June 15th (HPMS due date) prior to the due date of the Baseline Performance Report is to be used for this purpose. For example, State DOTs shall submit their first Baseline Performance Period Report to FHWA by October 1, 2016. The FHWA approved urbanized area data available in HPMS on June 16, 2016 is to be used.

Section 490.103(c) is reserved.

In § 490.103(d), FHWA proposes that State DOTs would continue to submit NHS limit data in accordance with HPMS Field Manual. The FHWA proposed that the State DOT submitted NHS information would be the authoritative data source for determining measure applicability (§ 490.105(c)), target scope (§ 490.105(d)), progress reporting (§ 490.107(b)), and determining significant progress (§ 490.109(d)) for the measures identified in § 490.105(c)(1)–(3). As discussed in § 490.105(e)(3)(i), the NHS limits dataset referenced in the Baseline Performance Report are to be applied to the entire performance period, regardless of changes to the NHS approved and submitted to HPMS during the performance period.

Discussion of § 490.105 Establishment of Performance Targets

The declared policy under 23 U.S.C. 150(a) transforms the Federal-aid highway program and encourages the most efficient investment of Federal transportation funds by refocusing on national transportation goals, increasing accountability and transparency in the Federal-aid highway program, and improving investment decisionmaking. To this end, FHWA encourages State DOTs and MPOs to establish targets that would support the national transportation goals while improving investment decision-making processes.

A number of considerations were raised during the performance management stakeholder outreach sessions regarding target establishment, such as: Providing flexibility for State DOTs and MPOs, coordinating through the planning process, allowing for appropriate time for target achievement, and allowing State DOTs and MPOs to incorporate risks. Using these considerations, FHWA created a set of principles to develop an approach to implement the target establishment requirements in MAP–21. These principles aimed to develop an approach that:

- Provides for a new focus for the Federal-aid program on the MAP–21 national goals under 23 U.S.C. 150(b);
- improves investment decisionmaking;
- considers the need for local performance trade-off decisionmaking;
- provides for flexibility in the establishment of targets;
- allows for an aggregated view of anticipated condition/performance; and
- considers budget constraints.

In § 490.105, FHWA proposes the minimum requirements that would be followed by State DOTs and MPOs in the establishment of targets for all measures identified in § 490.105(c), which include the proposed measures in both this performance management NPRM and the third performance management NPRM. These requirements are being proposed to implement the 23 U.S.C. 150(d) and 23 U.S.C. 134(h)(2) target establishment provisions in a manner that provides for the consistency necessary to evaluate and report progress at a State, MPO, and national level, while also providing a degree of flexibility for State DOTs and MPOs.

The FHWA proposes in § 490.105(a) for State DOTs and MPOs to establish quantifiable targets for each performance measure identified in § 490.105(c). In § 490.105(b), the performance targets for carrying out the HSIP would be established in accordance with § 490.209 of the first performance management NPRM.

In § 490.105(d), FHWA proposes that State DOTs establish statewide targets that represent performance outcomes of the transportation network within the respective State boundary, and that MPOs establish targets that represent performance outcomes of the transportation network within their respective metropolitan planning area. State DOTs and, if applicable, MPOs are encouraged to coordinate their target-establishment with neighboring states and MPOs to the extent practicable. The FHWA further proposes in § 490.105(d) that State DOTs and MPOs establish targets that represent performance outcomes of the entire transportation network required for proposed measures regardless of ownership, including NHS bridges that cross a State border.

The FHWA recognizes that there is a limit to the direct impact the State DOT and the MPO can have on the performance outcomes within the State and the metropolitan planning area, respectively, and recognizes that the State DOT and the MPO need to consider this uncertainty when

establishing targets. For example, some Federal and tribal lands contain roads and bridges on the NHS that State DOTs would need to consider (as appropriate) when establishing targets. The FHWA anticipates that State DOTs and MPOs would need to consult with relevant entities (*e.g.,* relevant MPOs, State DOTs, local transportation agencies, Federal Land Management Agencies, tribal governments) as they establish targets to better identify and consider factors outside of their direct control that could impact future condition/performance.

The FHWA also recognizes that the limits of the NHS could change between the time of target establishment and the time of progress evaluation and reporting for the targets for measures specified in sections § 490.105(c)(1) through (3). State DOTs may request modifications to the NHS, which could result in additions, deletions or relocations. In one instance with MAP–21, segments were added to the NHS. Such changes may alter the measures reported, which could then impact how an established target relates to actual measured performance. For example, if NHS limits are changed after a State DOT establishes the target, actual measured performance of the transportation network within the changed NHS limits would represent a different set of highways as compared to what was originally used to establish the target. This difference could impact a State DOT's ability to make significant progress toward achieving targets. Thus, for establishing targets for NHS, FHWA believes that it will be important for the State DOT to ensure that the data used to establish the targets is accessible, and the information about the data is properly documented. Consequently, FHWA proposes that State DOTs would need to describe the extent of the NHS used for target establishment. The FHWA also proposes that State DOTs declare and describe their urbanized area boundaries. This information would be included, along with reporting targets, in the Baseline Performance Period Report described in § 490.107(b)(1). These NHS limits and urbanized area boundaries are to be reported to HPMS in the year the Baseline Performance Report is due, and are applicable to the entire performance period, regardless of whether or not FHWA approved adjustments to the NHS limits during the performance period. In § 490.105(d)(3), FHWA proposes that any changes in NHS limits or urbanized area boundaries during a performance period would not be accounted for until the following performance period.

In § 490.105(e), FHWA proposes the State DOT requirements for the establishment of targets for all measures identified in paragraph 490.105(c), with applicable transportation network for those targets (target scope) defined in paragraph 490.105(d). Pursuant to 23 U.S.C. 150(d)(1) and 23 U.S.C. 150(e), FHWA proposes in § 490.105(e)(1) that State DOTs would establish targets within 1 year of the effective date of this rule, and for each performance period thereafter the State DOTs would establish and report the targets to FHWA by the due date provided in § 490.107(b)(1). The FHWA anticipates the final rule for this proposal to be effective no later than October 1, 2015. This would allow for at least a 1-year period for States to establish targets so that they can be reported in the first biennial performance report which would be due to FHWA by October 1, 2016. The FHWA recognizes that if the final rule is effective after October 1, 2015, the due date to report State DOT targets for the first performance period may need to be adjusted. If it becomes clear that the final rule won't be effective until after October 1, 2015, FHWA will consider adjusting the due date in the final rule or will issue implementation guidance that would provide State DOTs a 1-year period to establish and report targets.

The proposed schedule would require the establishment and reporting of targets at the beginning of each performance period or every 4 years. With the exception of the allowance proposed in § 490.105(e)(6), FHWA recommends that State DOTs would not have the ability to change targets reported for a performance period. Considering this proposed limitation, State DOTs would need to provide for sufficient time to fully evaluate their targets before they are due to be reported to FHWA.

Pursuant to 23 U.S.C. 135(d)(2)(B)(i)(II), FHWA proposes in § 490.105 (e)(2) that State DOTs shall coordinate with relevant MPOs to establish consistent targets, to the maximum extent practicable. The coordination would be accomplished in accordance with 23 CFR 450. The FHWA recognizes the need for State DOTs and MPOs to have a shared vision on expectations for future condition/performance in order for there to be a jointly owned target establishment process.

The FHWA proposes in § 490.105(e)(3) to allow State DOTs to establish additional targets for any of the proposed measures in Subparts C and D, beyond the required statewide target. The State DOT could establish additional targets for any number and combination of urbanized areas and could establish a target for the non-urbanized area for any or all of the proposed measures. This is intended to give the State flexibility when setting targets, and to aid the State in accounting for differences in urbanized and the non-urbanized area. For instance, a State DOT could choose to establish additional targets for a single urbanized area, a number of the urbanized areas, or all of the urbanized areas separately or collectively. For States that want to establish a non-urbanized target, it would be a single target that applies to the non-urbanized area statewide. If the State DOT elects to establish any additional targets, they need to be declared and described in the State Biennial Performance Report just after the start date of a performance period (*i.e.,* Baseline Performance Period Report). The FHWA intends to issue guidance regarding the voluntary establishment of additional performance targets for urbanized areas and the non-urbanized area.

If a State DOT chooses to establish additional performance targets, it would increase the number of performance targets that it reports. For example, at a minimum, State DOTs would be required to establish four statewide targets for the pavement condition measures, as specified in § 490.307. If a State DOT chooses to establish additional targets for all 4 pavement condition measures for the single largest urbanized area in its state, the State DOT would increase the total number of pavement condition targets to eight (4 required targets + 4 additional urbanized area targets = 8).

For each additional target established, State DOTs would evaluate whether they have made progress towards achieving each target and report on that progress in their biennial performance report in accordance with § 490.107(b)(2)(ii)(B) and (b)(3)(ii)(B).

Any additional targets the State DOT chooses to establish would not be subject to the significant progress assessment in § 490.109. Because these additional targets are optional and subcomponents of targets established under § 490.105(d), including them in the significant progress assessment proposed in § 490.109 could result in ''double counting'' during that assessment. The FHWA believes that excluding these additional targets from the significant progress assessment in § 490.109 provides an opportunity for some flexibility with respect to establishing the targets and may

encourage State DOTs to establish these additional targets.

Historically, the Census has defined urbanized areas every 10 years, and these boundaries can be adjusted (see 23 U.S.C. 101(a)(34)). The FHWA recognizes that the urbanized area boundaries and resulting non-urbanized area boundary have the potential to change on varying schedules. Changing a boundary during a performance period may lead to changes in the measures reported for the area, and could impact how an established target relates to actual measured performance. Thus, FHWA proposes that State DOTs would need to describe the urbanized area boundaries and the non-urbanized area boundary in place at the start of a performance period in the Baseline Performance Period Report, and use those same boundaries throughout a performance period. This will eliminate the potential for inconsistencies in the extent of the network used to establish targets and calculate measures in urbanized areas and the non-urbanized area, and provide consistency in reporting established targets for those areas.

The urbanized area boundaries are to be reported to HPMS in the year the Baseline Performance Report is due and are applicable to the entire performance period, regardless of whether or not FHWA approved adjustments to an area boundary during the performance period for other reasons. Any changes in urbanized area boundaries during a performance period would not be accounted for until the following performance period.

The FHWA is seeking comments on this approach for establishing optional additional targets for urbanized areas and the non-urbanized area. The FHWA would also like comments on any other flexibilities it could provide to or identify for State DOTs related to the voluntary establishment of additional targets. Some examples include:

- Providing options for establishing different additional targets throughout the State, particularly for the States' non-urbanized area; and
- Expanding the boundaries that can be used in establishing additional targets (*e.g.,* metropolitan planning area boundaries, city limit boundaries, etc.).

As described in § 490.105(f), an MPO would have the option to establish a quantifiable target for its metropolitan planning area. As described in 23 CFR 450.312, the boundaries of the metropolitan planning area include, at a minimum, the entire existing urbanized area (as defined by the Census Bureau) plus the contiguous area expected to become urbanized within a 20-year forecast period. The FHWA recognizes the challenges in coordinating targets between State DOTs and MPOs, especially in cases where metropolitan planning areas across multiple State boundaries. The FHWA intends for State DOTs and MPOs to collectively consider goals and issues when establishing both State DOT and MPO targets. For reporting purposes, FHWA expects MPOs to report progress to the relevant State DOT for the entire metropolitan planning area.

To illustrate the differences in boundaries and how they might be addressed for one of the pavement condition measures, the following example is provided regarding the target establishment boundary differences that could exist in the State of Maryland today.

- Urbanized Areas: Based on the 2010 Census, the State of Maryland contains part or all of 11 urbanized areas. Of these urbanized areas, 5 are shared with neighboring States.
- Metropolitan Planning Areas: Currently, the State contains part or all of six metropolitan planning areas. Of these areas, four metropolitan planning areas are shared with neighboring States. (A map of Metropolitan Planning Areas and Urbanized Areas of the State of Maryland is included in the docket.)
- Statewide Urbanized Area Target Extent: An optional State target for the Percentage of Interstate System lane-miles in Good condition within the State's urbanized areas would represent those portions of the 11 urbanized areas within the geographic boundary of the State of Maryland, in aggregate.
- Single Urbanized Area Target Extent: An optional urbanized area target for a single urbanized area would represent the anticipated Percentage of Interstate System lane-mileage in Good condition within the identified urbanized area, based on the corresponding boundary described Baseline Performance Period Report. In the case of the Hagerstown urbanized area, the target would be established for the portion of the urbanized area in the State of Maryland.
- MPO Target Extent: Each of the six MPOs would establish individual targets for representing the anticipated Percentage of Interstate System lane-mileage in Good condition within their entire metropolitan planning area, regardless of State boundary. In the case of the Hagerstown—Eastern Panhandle MPO in Maryland/West Virginia/Pennsylvania, the MPO would establish target for Interstate System lane-mileage in Good pavement condition within its metropolitan planning boundary that extends beyond Maryland State boundary and into Pennsylvania State boundary, while the Maryland DOT would establish its target for the area only within its State boundary.

The FHWA is seeking comment on alternative approaches that could be considered to effectively implement 23 U.S.C. 134(h)(2)(B)(i)(I) and 23 U.S.C. 150(d)(2) considering the need for coordination required under 23 U.S.C. 134(h)(2)(B)(i)(II) and 23 U.S.C. 135(d)(2)(B)(i)(II).

The FHWA proposes in § 490.105(e)(4) that State DOTs establish targets with a 2-year time horizon (*i.e.,* 2-year target) and a 4-year time horizon (*i.e.,* 4-year target) for each performance period. Each performance period, defined in § 490.101, would begin on the January 1 of the year in which the State DOT target is reported (*i.e.,* State DOT Baseline Performance Period Report required in § 490.107(b)(1)) to FHWA and would extend for a duration of 4 years. Additionally, the midpoint of a performance period would occur 2 calendar years after the beginning of a performance period. Thus, 2-year targets would be the anticipated or intended condition/performance level at the midpoint of each performance period, and 4-year targets would be the anticipated or intended condition/performance level at the end of each performance period. It is important to emphasize that established targets (2-year target and 4-year target) would need to be considered as interim conditions/performance levels that lead toward the accomplishment of longer-term performance expectations in the State DOT's long-range statewide transportation plan [45] and NHS asset management plans.[46] As defined in § 490.101, a target is a numeric value that represents a quantifiable level of condition/performance in an expression defined by a measure. The FHWA proposes that a target would be a single numeric value representing the intended or anticipated condition/performance level at a specific point in time. For example, the proposed measure, Percentage of pavements of the Interstate System in Good condition (in § 490.307(a)(1)), would be a percentage of lane-miles of the Interstate System in Good condition (§ 490.307(f)(2)) expressed in one tenth of a percent. Thus, FHWA proposes that a target for this measure would be a percentage of lane-miles of the Interstate System in Good condition expressed in one tenth of a percent. As a hypothetical example, a 2-year target and a 4-year target would be 39.5% and 38.5%, respectively for

[45] 23 U.S.C. 135(f).

[46] 23 U.S.C. 119(e).

the proposed measure Percentage of pavements of the Interstate System in Good condition.

The FHWA is proposing this definitive performance period while recognizing that planning cycles and time-horizons for long-term performance expectations differ among State DOTs. The FHWA felt that although differences exist, it was necessary to utilize a 4-year performance period considering the following implementation expectations:

- Provide for a link between the interim, short-term targets (*i.e.,* 2-year and 4-year time horizons) to individual State DOT's long-term performance expectations as part of performance-based planning and programming process;
- Ensure the time horizon is long enough to allow for condition/performance change to occur through the delivery of programmed projects;
- Align the schedule of reporting on targets and the evaluation of progress toward achieving the targets with the biennial performance reporting requirements under 23 U.S.C. 150(e); and
- Report targets using a consistent performance period as part of the evaluation of the State DOTs' effectiveness of performance-based planning process to the Congress by October 1, 2017, as required by 23 U.S.C. 135(h).

The FHWA anticipates that the State DOTs would establish targets for the measures listed in § 490.105(c) and report the established targets to FHWA by the statutory deadline for the first biennial report of October 1, 2016.[47] The FHWA considered a number of alternatives for a consistent time horizon (*i.e.,* performance period) across the State DOTs to ensure consistent reporting of targets and assessment of progress toward achieving those targets for carrying out the requirements in the statutory provisions.[48]

In addition, FHWA considered the data collection cycles associated with other proposed measures. The FHWA also assessed the inherent time lag between data collection and target establishment due to necessary data processing, data quality management, data analysis, and other required business processes necessary for target establishment. The FHWA intends to minimize the time lag between the end of a performance period and the time of subsequent biennial performance reporting under 23 U.S.C. 150(e) to ensure a timely assessment of progress toward achieving the targets. Thus, FHWA proposes that the first 4-year performance period start on January 1, 2016, and end on December 31, 2019, and subsequent performance periods would follow thereafter, for the measures listed in § 490.105(c). A diagram for proposed performance periods for target establishment, condition/performance measure data collection and assessment, and biennial performance reporting is exhibited in Figure 1.

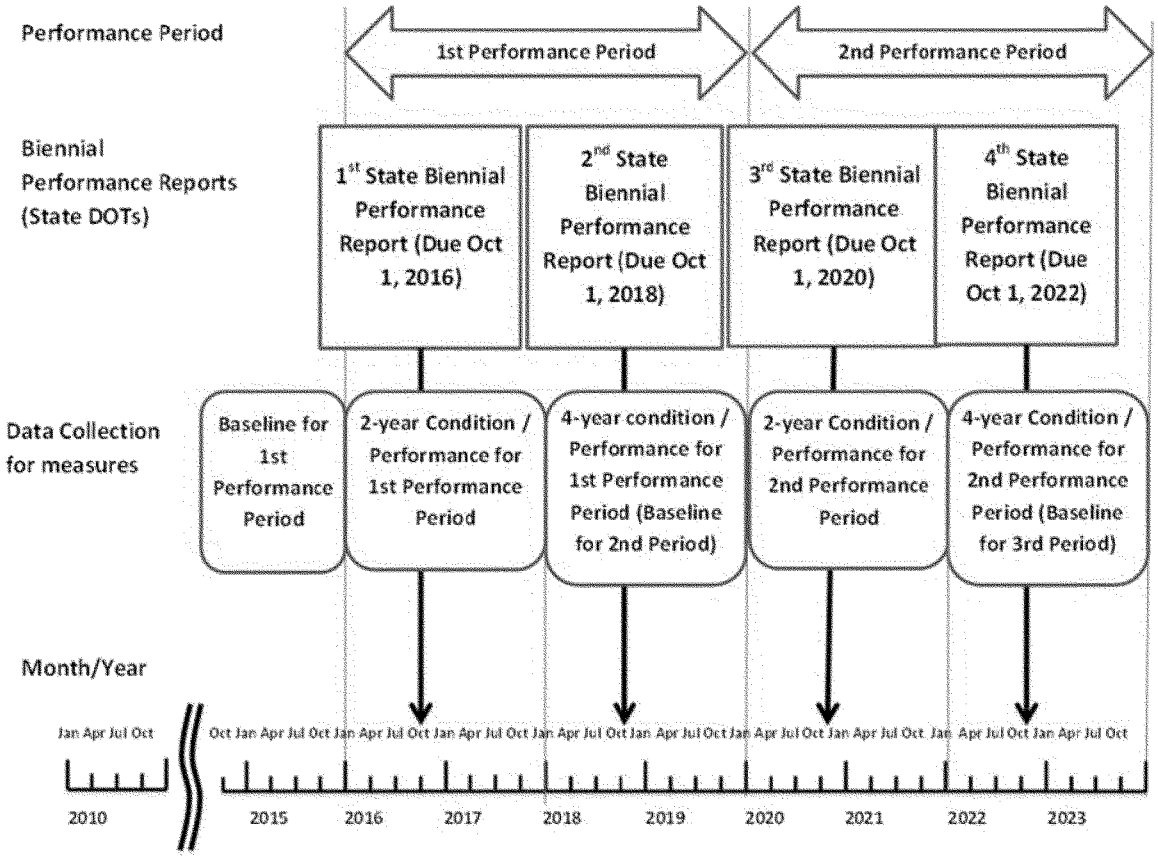

Figure 1 – Timeline of Performance Periods

[47] 23 U.S.C. 150(e).

[48] 23 U.S.C. 150(e), 23 U.S.C. 135(h), and 23 U.S.C. 119(e)(7).

As shown in Figure 1, for the first performance period, the latest measured condition/performance data through December 31, 2015, is the baseline condition/performance. The State DOTs would establish 2-year targets as the condition/performance anticipated at a midpoint, which would be indicated by the latest measured condition/performance data through the midpoint of the performance period (December 31, 2017, for the first performance period). Similarly, the State DOTs would establish 4-year targets as the condition/performance anticipated at the end of a performance period that would be indicated by the latest measured condition/performance data through the end of the performance period (December 31, 2019, for the first performance period). It is important to note that the frequency of data collection cycle depends on the individual measure. For example, the Interstate System pavement condition measures provided in § 490.307(a)(1) and (2) would require a data collection frequency of 1 year as specified in § 490.309(b)(1). Conversely, non-Interstate NHS condition measures, provided in § 490.307(a)(3) and (4), respectively, would require a data collection frequency of 2 years as specified in § 490.309(b)(2).

Data collection frequency requirements are defined in the Data Requirement sections for each measure in the relevant subparts. This proposed timeline is intended to: (1) Satisfy the first State DOT biennial performance report due on October 1, 2016, as described in the discussion on § 490.107; (2) accommodate data collection cycles; and (3) minimize the time lag between the end/midpoint of a performance period and the following biennial performance reporting date, as described in the discussion sections in §§ 490.107 and 490.109. Baseline condition and target establishment for subsequent performance periods would follow a similar timeline as the first performance period. The proposed 2-year and 4-year targets are timed so that the targets are on the same cycle as the biennial report under 23 U.S.C. 150(e), and are also necessary for FHWA to determine the significant progress for NHPP measures as required under 23 U.S.C. 119(e)(7). The FHWA must make this determination every 2 years, after a State DOT submits each biennial report.

The FHWA proposes in § 490.105(e)(5) that State DOTs report their established targets (2-year and 4-year) and progress toward achieving their targets in the biennial performance report required per 23 U.S.C. 150(e) as specified in § 490.107. As discussed in § 490.105(e)(2), State DOT coordination with relevant MPOs would be required for selection of targets. Thus, FHWA proposes that the State DOTs would be able to provide relevant MPOs' targets to FHWA, upon request, each time the relevant MPOs establish or adjust MPO targets, described in § 490.105(f).

The FHWA recognizes that State DOTs would need to consider many factors in establishing targets that could impact progress such as uncertainties in funding, changing priorities, and external factors (see § 490.109(e)(4)) outside the control of the State DOTs. Thus, FHWA proposes in § 490.105(e)(6) that State DOTs may adjust their established 4-year targets when they submit their State Biennial Performance Report just after the midpoint of the performance period (*i.e.,* Mid Performance Period Progress Report, described in § 490.107(b)(2)). This target adjustment allowance would be limited to this specific report and not allowed at any other time during the performance period. The FHWA feels that this frequency of adjustment allows a State DOT to address changes they could not have foreseen in the initial establishment of 4-year targets while still maintaining a sufficient level of control in the administrative procedure necessary to carry out these program requirements in an equitable manner. For example, the 4-year target established in 2016 (the 1st State Biennial Performance Report illustrated in Figure 1) may be adjusted in 2018 (2nd State Biennial Performance Report illustrated in Figure 1). The State DOT would report and justify this adjusted target in the second State Biennial Performance Report due on October 2018 (*i.e.,* Mid Performance Period Progress Report). The details of reporting requirements for adjusting a target are discussed in § 490.107(b)(2).

In § 490.105(e)(7), FHWA proposes that State DOTs are not required to establish their 2-year targets in the beginning of the first performance period (*i.e.,* the 1st State Biennial Performance Report illustrated in Figure 1) for the Interstate System pavement condition measures, provided in § 490.307(a)(1) and (2). As proposed in the § 490.105(e)(4) discussion, the first performance period baseline condition/performance data would need to be collected prior to the start of the performance period for establishing targets. However, FHWA recognizes that some State DOTs may not be able to meet all data requirements in § 490.309(b)(1) prior to the start of the first proposed performance period for the Interstate System pavement condition measure. Thus, FHWA proposes that for the first performance period, State DOTs would only be required to establish their 4-year targets in the beginning of the first performance period (*i.e.,* the 1st State Biennial Performance Report in 2016 illustrated in Figure 1) for the Interstate System pavement condition measures. If necessary, the State DOTs would adjust their established 4-year targets at the midpoint of the first performance period (*i.e.,* the 2nd State Biennial Performance Report in 2018 illustrated in Figure 1) as described in § 490.105(e)(6).

Similar considerations should be made regarding baseline conditions/performance. For those State DOTs who may not be able to collect data required in § 490.309(b)(1) prior to the start of the first proposed performance period, FHWA proposes that such State DOTs would not be required to establish baseline condition/performance in the 1st State Biennial Performance Report in 2016, but would update baseline condition/performance with the 2-year condition/performance at the midpoint (2nd State Biennial Performance Report illustrated in Figure 1) in 2018. Also, at the midpoint of the first performance period, FHWA would determine the State DOT's 2-year targets for the Interstate System pavement condition measures as ''progress not determined'' for the 2-year significant progress determination as discussed in § 490.109(e)(3).

In § 490.105(f) FHWA proposes MPO requirements for the establishment of targets for all measures identified in § 490.105(c). These requirements are being proposed to implement the 23 U.S.C. 134(h)(2)(B) target establishment provisions in a manner that provides for a level of consistency necessary to evaluate and report progress at an MPO and the national level while providing for a degree of flexibility to support metropolitan planning needs. The FHWA also attempted to develop these target establishment requirements so that they could be met by all MPOs, recognizing that MPOs currently vary in capability, resource availability, and ability to establish performance targets.

Pursuant to 23 U.S.C. 134(h)(2)(C), FHWA proposes in § 490.105(f)(1) that each MPO would establish 4-year targets no later than 180 days after the relevant State DOT establishes its targets, described in the discussion of § 490.105(e)(1). The FHWA recognizes the burden on MPOs, regardless of size, to establish targets. In addition, MPOs are not directly subject to the requirement to evaluate the progress toward achieving NHPP targets. As a result, FHWA proposes in this section that MPOs would not be required to

establish 2-year targets, which are required of State DOTs under § 409.105(d)(4). Thus, in case of the first performance period, FHWA anticipates that the State DOTs would establish targets for the measures listed in § 490.105(c) prior to the first State DOT biennial performance report, and the MPOs would establish targets no later than 180 days thereafter. The timeline for target establishment for State DOTs is illustrated in Figure 1 in the discussion of § 490.105(e)(4). If the rule is effective on or after September 30, 2015, MPOs may not have the opportunity to establish their own targets in time for States to consider those MPO targets when submitting the 1st Baseline Performance Period Report. The MPOs would be required to establish targets for all applicable measures.

Similar to the requirement for State DOTs, pursuant to 23 U.S.C. 134(h)(2)(B)(i)(II), FHWA proposes in § 490.105(f)(2) that MPOs coordinate with relevant State DOT(s) to establish consistent targets, to the maximum extent practicable. This would be done in accordance with 23 CFR part 450.

As part of the MPO-State DOT coordination in establishing State DOT and MPO targets described in the discussion of § 490.105(e)(2) and (f)(2), FHWA proposes in § 490.105(f)(3) that the MPOs establish targets with a 4-year performance period identical to the State DOT's performance periods discussed in the Section-by-Section for §§ 490.101 and 490.105(e)(4). It is important to emphasize that established MPO targets (4-year target) must be considered as interim conditions/performance levels that lead toward the accomplishment of longer-term performance expectations in the longer-term performance expectations in the MPO's Metropolitan Transportation Plan [49] and relevant State DOT NHS asset management plans.[50]

The FHWA recognizes the burden on the MPOs to establish their own performance targets. Consequently, as proposed, the MPOs would have the flexibility to establish their targets using one of two options. The FHWA proposes in § 490.105(f)(4) that MPOs would establish targets, specific to the metropolitan planning area, by either: (1) Agreeing to plan and program projects so that they contribute toward the accomplishment of the relevant State DOT targets, or (2) committing to quantifiable targets for their metropolitan planning area. This proposal would give MPOs two options to establish targets. The MPOs could establish their own quantifiable targets. Alternatively, recognizing that the resource level and capability of some MPOs to reliably predict performance outcomes varies across the country, FHWA is proposing an approach that would allow MPOs that did not want to establish their own quantifiable target to establish targets by supporting the State DOT targets for performance. The MPOs would do this through their investment decisionmaking process. Regardless of which option MPOs use to establish targets, FHWA recognizes that the MPOs may need to work with relevant State DOTs to coordinate, plan, and program projects for their planning area.

As stated in the § 490.105(e)(6) discussion, State DOTs may adjust their established 4-year targets when they submit their State Biennial Performance Report just after the midpoint of the performance period (*i.e.,* Mid Performance Period Progress Report, described in § 490.107(b)(2)). The MPOs are required to establish targets 180 days after the date on which the relevant State DOT(s) establishes their targets, per the MPO target establishment requirements specified in 23 U.S.C. 134(h)(2)(C). If a State DOT adjusts a target, as allowed under the proposed §§ 490.105(e)(6) and 490.107(b)(2), any relevant MPOs would be required to also re-establish targets for the same measures within 180 days. However, FHWA is proposing that the MPO only be required to re-establish the target if the MPO had originally elected to establish a target supporting the State DOT target for that measure. In that case the adjusted State target could directly impact an MPO's investment decisionmaking. Specifically, FHWA proposes in § 490.105(f)(7) that if a State DOT adjusts their 4-year target in the State DOT's Mid Performance Period Progress Report and the MPO established the relevant target by supporting the State DOT target as allowed under § 490.105(f)(4), then the MPO would be required, within 180 days, to report to the State DOT if they either: (1) Agree to plan and program projects so that they contribute toward the accomplishment of State DOT adjusted target, or (2) commit to a new quantifiable 4-year target.

As with State DOTs, FHWA recognizes that MPOs would need to consider many factors in establishing targets, such as uncertainties in funding, changing priorities, and external factors outside the control of the MPO. Thus, FHWA proposes in § 490.105(f)(8) that MPOs may adjust their established 4-year target in a manner that is consistent with agreed upon terms documented in the relevant Metropolitan Planning Agreement. The FHWA recognizes that for many MPOs the establishment of targets, especially for the first performance period, would be new and challenging and that there may be a need to revisit targets during the 4-year performance period. The FHWA requires State DOTs and MPOs to coordinate with each other throughout the performance period with respect to any target adjustments so their targets are consistent to the maximum extent practicable.

In § 490.105(f)(9), FHWA proposes that the method by which MPOs would report their established baseline condition/performance, targets, and progress toward achieving targets would be as specified in § 490.107(c). The FHWA further proposes in 490.105(f)(9) that the State would be able to provide MPO targets to FHWA on request after targets are established or adjusted by MPOs within the State. The FHWA believes that, through the coordination between a State DOT and relevant MPOs, the reporting on MPO progress can be shared between these two entities. However, FHWA expects to be able to request from a State DOT the MPO targets and reports on progress, as needed, to better understand performance expectations and outcomes in urbanized areas across the country. The State DOT and MPO would document the target establishment reporting process in the Metropolitan Planning Agreement, in accordance with 23 CFR 450. The FHWA encourages State DOTs to work with multiple MPOs to agree on a process for reporting that would provide a sufficient level of consistency to understand performance in urbanized areas collectively across the State.

Discussion of § 490.107 Reporting on Performance Targets

Pursuant to 23 U.S.C. 150(e), State DOTs are required to submit reports on performance targets and progress in achieving established targets to FHWA not later than October 1, 2016, and every 2 years thereafter. The FHWA evaluated whether there were any existing reports that could be used to meet these 23 U.S.C. 150(e) reporting requirements. For the non-HSIP related measures, FHWA determined that none of the existing reporting requirements met the statutorily required timing. In addition, none of the existing reports currently provide the consistency needed to implement performance management nationally. For these reasons, FHWA proposes a new biennial report to meet the statutory requirements.

[49] 23 U.S.C. 134(i).

[50] 23 U.S.C. 119(e).

The FHWA proposes in § 490.107 for State DOT performance reporting to be used—

- In the determination of significant progress toward achieving NHPP targets;
- to provide some of the information needed for FHWA to report to Congress on the performance-based planning process evaluation of each State DOT as required by 23 U.S.C. 135(h);
- to understand performance needs, expectations, and progress at a State, regional, and national level; and
- to provide for transparency by communicating the content of the report to the public on an externally facing Web site in a downloadable format.

In § 490.107(a), FHWA proposes that all performance targets described in § 490.105 would be subject to biennial performance reporting in this section. However, reporting on performance targets for carrying out the HSIP would be in accordance with § 490.213. In the National Performance Measures; HSIP NPRM, FHWA proposed a 1 calendar year period as the basis for measurement, target establishment, and reporting. As discussed in § 490.101 of that NPRM, a 1-year period was proposed to align the safety measures with the requirements for the common measures reported as a requirement of 23 U.S.C. 402. The FHWA also proposes that State DOTs use an electronic template to deliver the report proposed in this section. The FHWA intends to provide additional guidance regarding the template which will include fields to capture all of the information that would be required to be reported under this rulemaking.

For consistent State DOT and FHWA reporting, FHWA proposed a 4-year performance period in § 490.105(e)(4). The FHWA recognizes the need for uniform data collection timing in order to ensure consistency in reporting and repeatable target establishment and progress evaluation processes. Thus, in subsequent sections, FHWA proposes the timing of data collection based on the specified performance periods, described in § 490.105(e)(4). The FHWA proposes that data collection requirements for the established measures support the reporting requirements in this section and be in accordance with the respective Data Requirements section (*e.g.,* § 490.309) for each measure. To ensure consistency in reporting, FHWA proposes that the reported baseline condition/performance be derived from the latest data collected through the begin date of a performance period, the reported actual 2-year condition/performance would be derived from the latest data collected through the midpoint of a performance period, and the reported actual 4-year condition/performance would be derived from the latest data collected through the end date of a performance period. This is illustrated in Figure 1 in the discussion for § 490.105(e)(4).

The FHWA proposes in § 490.107(b) that State DOTs submit to FHWA three types of Biennial Performance Reports: Baseline Performance Period Report, Mid Performance Period Progress Report and Full Performance Period Progress Report. The FHWA proposes to make a distinction between the three reports to emphasize the differences in content while aligning the reporting process to the proposed target establishment, progress evaluation, and other performance reporting requirements. Figure 2 is a timeline of the proposed reporting timeline for the Biennial Performance Reports. The proposed requirements identify three distinct biennial reports (baseline, mid and full) and State DOTs will be expected to provide information for at least one of these reports every 2 years. Because these reports would be required for consecutive 4-year performance periods, the information provided in the Full Performance Period Report would be provided at the same time and may include some of the same information as the Baseline Performance Period Report for the next performance period. As discussed previously, FHWA is proposing to provide for an electronic template that State DOTs would use to capture the information required in each of the three reports discussed in § 490.107(b). It is envisioned that this electronic template would provide the State DOT all of the relevant fields for the information that would be due at the corresponding 2-year point. This approach would allow State DOTs to provide all of the required baseline and progress reporting information at one time. The proposed regulations identify three distinct reports to clarify the purpose and timing of information that would be required to be reported every 2 years.

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Discussion of Baseline Performance Period Reports

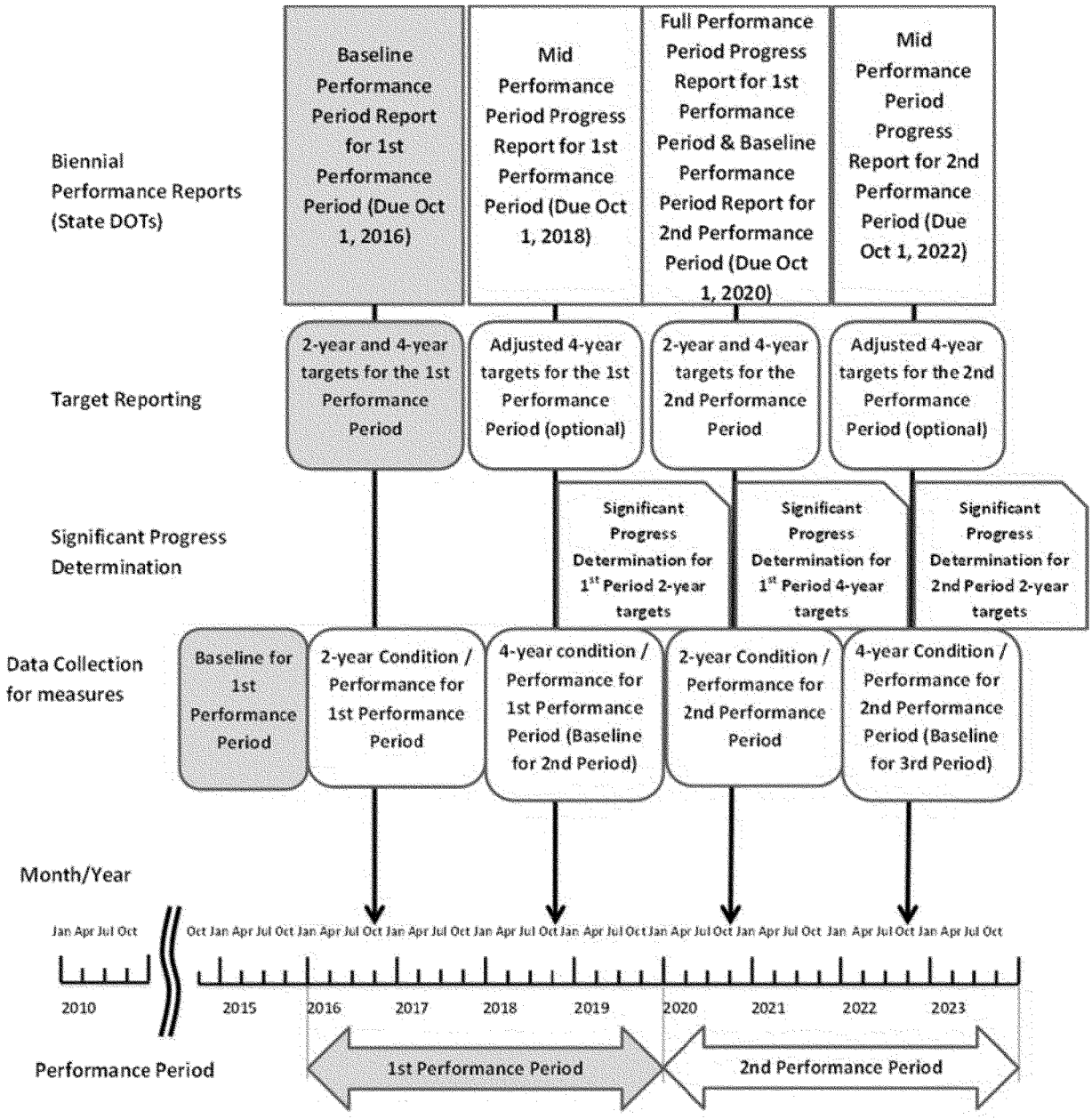

Figure 2 – Alternating Biennial Performance Reports – The Baseline Performance Period Report

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The FHWA proposes the requirement for the Baseline Performance Period Report in § 490.107(b)(1), where the State DOTs would be required to submit a Baseline Performance Period Report no later than October 1 of the first year of a performance period. The FHWA is proposing that the first performance period would begin on January 1, 2016, which would require State DOTs to submit their first Baseline Performance Period Report no later than October 1, 2016. Subsequent Baseline Performance Period Reports would be due no later than October 1 every 4 years thereafter.

The required contents for the Baseline Performance Period Report are discussed in § 490.107(b)(1)(ii). The FHWA is proposing that the Baseline Performance Period Report would be the official source of the non-safety targets established by the State DOT. To document the established targets, FHWA proposes in § 490.107(b)(1)(ii)(A) that State DOTs would report both their established 2-year and 4-year targets for each measure listed in 490.105(c) for the current performance period. Considering the proposed phase-in of new requirements for Interstate System pavement condition measures discussed in § 490.105(e)(7), State DOTs would not be required to report 2-year targets for Interstate System pavement measures in the Baseline Performance Period Report

for the first performance period. If a State DOT elects to establish additional targets for urbanized and non-urbanized areas, as described in § 490.105(e)(3), the State DOT would be required to include these targets (both 2-year target and 4-year target) in the report.

Although FHWA would not approve the State DOT submitted targets, a discussion of the basis for each established target would be included in the Baseline Performance Period Report. The FHWA believes that this discussion is needed to explain the State DOT's basis for the selection of a target. The FHWA intends to publish the State DOT established targets on a publicly available Web site with the target basis discussion. It is important to note that, although other MAP–21 required plans and reports may discuss and use targets, FHWA is proposing that only the targets reported in the Baseline Performance Period Report and the HSIP report would be viewed by FHWA as those that are established by the State DOT to meet the requirements of 23 U.S.C. 150(d).

The FHWA proposes in § 490.107(b)(1)(ii)(B) that the State DOTs report baseline condition/performance associated with each target reported to represent the latest condition/performance data collected through the begin date of a performance period. Considering the first performance period is proposed to begin on January 1, 2016, the baseline condition/performance for this performance period would be the most recent condition/performance that represents actual condition/performance through December 31, 2015. Considering the proposed phase-in of new requirements for Interstate System pavement condition measures discussed in § 490.105(e)(7), State DOTs would not be required to report baseline conditions for Interstate System pavement measures in the Baseline Performance Period Report for the first performance period. If a State DOT elects to establish additional targets for urbanized and non-urbanized areas as described in § 490.105(e)(3), the State DOT would report baseline condition/performance that represent these areas in addition to the statewide baseline condition/performance. As an example, for the Percentage of pavements of the Interstate System in Good condition measure (in § 490.307(a)(1)), would be a percentage of lane-miles of the Interstate System in Good condition (§ 490.307(f)(2)) expressed in one tenth of a percent. Thus, FHWA proposes that a baseline condition/performance for this measure would be a percentage of lane-miles of the Interstate System in Good condition expressed in one tenth of a percent. As a hypothetical example, baseline condition/performance would be 37.7% for the proposed measure Percentage of pavements of the Interstate System in Good condition.

The FHWA proposes in § 490.107(b)(1)(ii)(C) that State DOTs would be required to also include a discussion in the Baseline Performance Period Report, to the maximum extent practical, of how the established 2-year and 4-year targets support longer term performance expectations in other performance-related plans, such as the State asset management plan and the long-range statewide transportation plan.

The FHWA proposes in § 490.107(b)(1)(ii)(D) that State DOTs would be required to report the geographic boundaries and Decennial Census population data used to determine target scope, IRI rating and establish any additional targets for urbanized and non-urbanized areas. Similarly, in § 490.107(b)(1)(ii)(E), FHWA proposes that State DOTs would be required to report the NHS network limits used for target establishment. The State DOT would report both the urbanized area boundaries and NHS limits used for target establishment by identifying the corresponding data inventory year of the HPMS that includes this information. Using HPMS data items for the data year identified by the State, FHWA would be able to extract pavement and bridge condition data for the appropriate NHS and/or urbanized area the State DOT used to establish targets. The FHWA would use this information in making its progress determinations in future years. It is the State's responsibility to ensure that the data entered into HPMS reflects the information that is used for target establishment.

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Discussion of Mid Performance Period Report

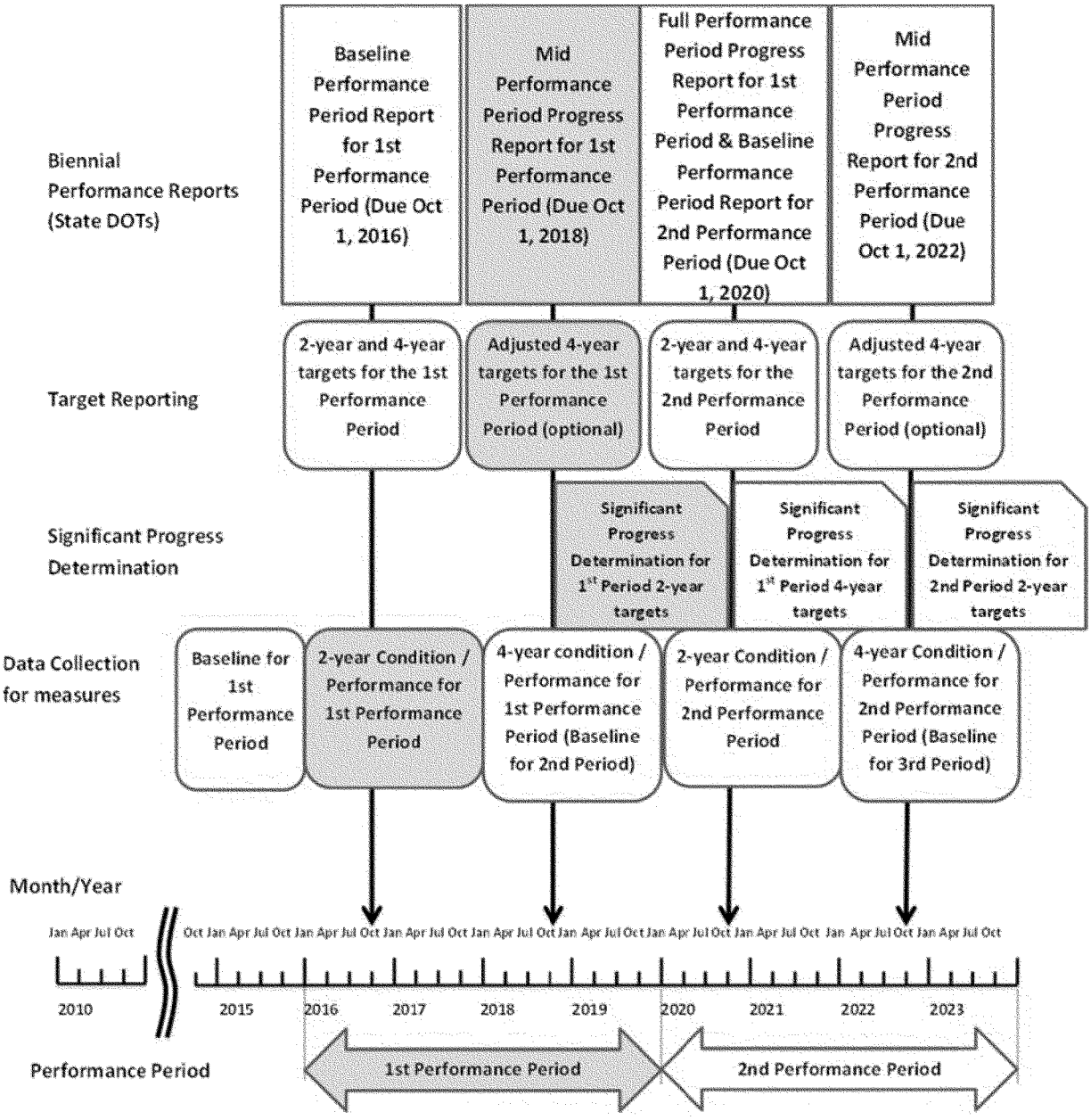

Figure 3 – Alternating Biennial Performance Reports – The Mid Performance Period Report

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The FHWA proposes the requirement for the Mid Performance Period Progress Report in § 490.107(b)(2). In § 490.107(b)(2)(i), FHWA proposes that State DOTs would be required to submit a Mid Performance Period Progress Report no later than October 1 of the third year of a performance period. The FHWA is proposing that the first performance period would begin on January 1, 2016, which would require State DOTs to submit their first Mid Performance Period Progress Report no later than October 1, 2018, and subsequent Mid Performance Period Progress Reports would be due no later than October 1 every 4 years thereafter.

In § 490.107(b)(2)(ii), FHWA proposes the required contents for the Mid Performance Period Progress Report. In § 490.107(b)(2)(ii)(A), FHWA proposes that State DOTs would be required to report 2-year condition/performance in each Mid Performance Period Progress Report. As exhibited in Figure 3, FHWA proposes that the 2-year condition/performance would be reported to represent the actual condition/performance derived from the latest measured condition/performance through the midpoint of a performance period. Considering the first performance period is proposed to begin

on January 1, 2016, 2-year condition/performance for this performance period would be the most recent conditions/performance that represents actual conditions/performance through December 31, 2017 (illustrated in Figure 3).

Considering the proposed phase-in of new requirements for Interstate System pavement condition measures discussed in § 490.105(e)(7), State DOTs would be required to report the 2-year actual Interstate System pavement conditions as the baseline condition by updating their Baseline Performance Period Report for the first performance period.

The FHWA proposes in § 490.107(b)(2)(ii)(B) that State DOTs would also include a discussion of progress made toward the achievement of 2-year targets established for the current performance period. In this discussion, State DOTs would present a comparison of 2-year condition/performance with the 2-year targets that were established for the performance period. For example, in the first Mid Performance Period Progress Report in 2018, a State would compare the actual condition/performance through 2017 with the 2-year targets established for the first performance period and discuss why targets were or were not achieved. This discussion could describe accomplishments achieved, planned activities, circumstances that led to actual conditions/performance, or any other information that State DOT feel would adequately explain progress. Although this explanation would not be used in the determination of significant progress, as described in § 490.109, this information would be made available to the public to provide an opportunity for the State DOT to discuss actual outcomes achieved. As an example, the Percentage of pavements of the Interstate System in Good condition measure (in § 490.307(a)(1)), would be a percentage of lane-miles of the Interstate System in Good condition (§ 490.307(f)(2)) expressed in one tenth of a percent. Thus, FHWA proposes that a 2-year condition/performance for this measure would be a percentage of lane-miles of the Interstate System in Good condition expressed in one tenth of a percent. As a hypothetical example, 2-year condition/performance would be 39.2% for the proposed measure Percentage of pavements of the Interstate System in Good condition.

The FHWA proposes in § 490.107(b)(2)(ii)(C) that, in each Mid Performance Period Progress Report, State DOTs would include discussion on the effectiveness of the investment strategy documented in the State asset management plan for the NHS. The FHWA is reserving § 490.107(b)(2)(ii)(D). The statutory requirement for State DOTs to include a discussion on ways in which State DOTs are addressing congestion at freight bottlenecks, including those identified in the National Freight Strategic Plan, will be addressed in the third Performance Measure NPRM. This content is required as part of the report under 23 U.S.C. 150(e)(2) and (4). The FHWA recognizes that the Mid Performance Period Progress Report for the first performance period may be impacted by the timing of the implementation of the new NHS asset management plan requirement. The FHWA intends to issue further guidance if the timing of this plan would impact a State DOT's ability to comply with the requirements proposed in § 490.107(b)(2)(ii)(C).

As discussed in § 490.105(e)(6), FHWA recognizes the challenges that State DOTs may face in target establishment and, as a result, proposes to allow State DOTs to adjust their 4-year targets. The FHWA is proposing in § 490.107(b)(2)(ii)(E) that State DOTs would report any adjustments to their 4-year targets in the Mid Performance Period Progress Report. The FHWA proposes that this target adjustment allowance would be limited to this specific report and not allowed prior to, or following, the submittal of the Mid Performance Period Progress Report. For example, if a State DOT elects to adjust a 4-year target established in its first Baseline Performance Period Report in 2016, the State DOT would only be able to adjust the 4-year target in its Mid Performance Period Progress Report in 2018. In addition to reporting the adjusted 4-year target, the State DOT would be required to include a discussion on the basis for the adjusted 4-year target(s) for the performance period and a discussion on how the adjusted targets support expectations documented in longer range plans, such as the State asset management plan and the long-range statewide transportation plan.

In § 490.107(b)(2)(ii)(F), FHWA proposes that the State DOTs would discuss the progress they have made toward the achievement of the 2-year targets reported in the current Baseline Performance Period Report that would had been established for the NHPP measures specified in § 490.105(c)(1) through (3).[51] Additionally, State DOTs would provide information to discuss how the actual 2-year condition/performance levels compare with the NHPP targets. Although this discussion would not be used in the determination of significant progress for the NHPP, this information would be made available to the public to provide an opportunity for the State DOT to discuss actual outcomes related to the NHPP. For example, the State DOT may use this discussion to explain how they effectively and efficiently delivered a program designed to achieve 2-year targets, how this may have resulted in actual condition/performance improvements for the NHPP, and how the State DOT would deliver a program to make significant progress toward achieving 4-year targets for the NHPP.

In § 490.107(b)(2)(ii)(G), FHWA is proposing that State DOTs would report any factors that it could not have foreseen and were outside of their control that impacted its ability to make significant progress for the NHPP 2-year targets. This discussion would be used by FHWA to consider the application of the proposed consideration of extenuating circumstances discussed in § 490.109(e)(4).

In § 490.107(b)(2)(ii)(H), FHWA proposes that if FHWA determines that a State DOT has not made significant progress toward the achievement of NHPP targets, in two consecutive biennial FHWA determinations, then the State DOT would include a description of the actions they will undertake to better achieve NHPP targets as required under 23 U.S.C. 119(e)(7). For example, if either of the Interstate pavement condition targets did not make significant progress in previous two determinations (determinations at midpoint and the end of previous performance period), then the State DOT would include in the current Mid Performance Period Report a description of the actions the State DOT will undertake to improve conditions with respect to both Interstate pavement condition measure. If FHWA determines that the State DOT has achieved significant progress, then the State DOT does not need to include such description in the Mid Performance Period Progress Report.

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[51] The performance measures for performance of the Interstate System and performance of the non-Interstate NHS will be proposed in the third performance measures NPRM.

Discussion of Full Performance Period Reports

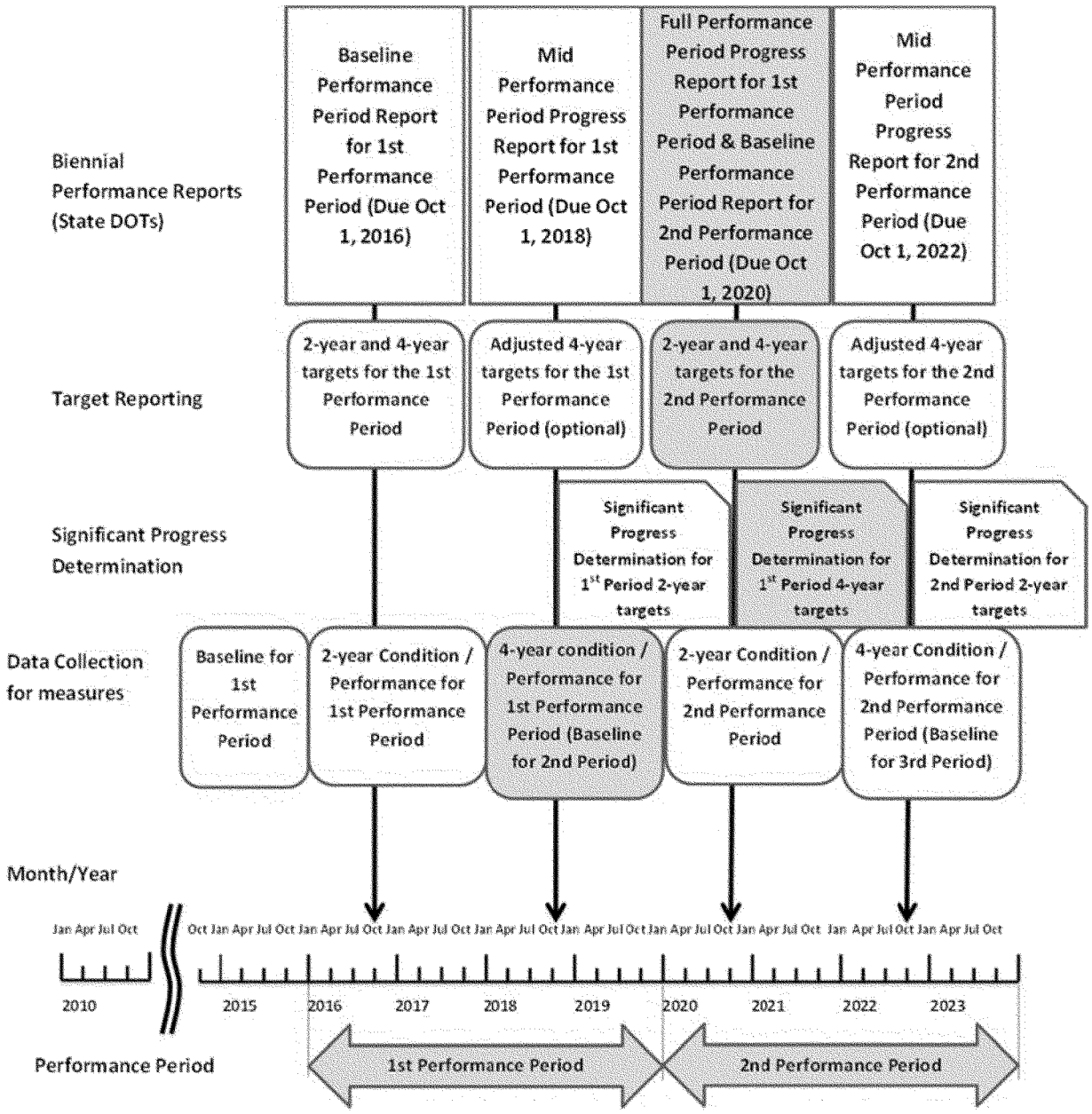

Figure 4 – Alternating Biennial Performance Reports – The Full Performance Period Report

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The FHWA proposes the requirement for the Full Performance Period Progress Report in § 490.107(b)(3). In § 490.107 (b)(3)(i), FHWA proposes that State DOTs be required to submit a Full Performance Period Progress Report no later than October 1 of the first year following the completion of a performance period. The FHWA is proposing that the first performance period would begin on January 1, 2016, which would require State DOTs to submit their first Full Performance Period Progress Report no later than October 1, 2020, and subsequent Full Performance Period Progress Reports would be due no later than October 1 every 4 years thereafter.

In § 490.107(b)(3)(ii), FHWA proposes the required contents for Full Performance Period Progress Report.

In § 490.107(b)(3)(ii)(A), FHWA proposes that State DOTs would be required to report 4-year condition/performance in each Full Performance Period Progress Report. As exhibited in Figure 4, FHWA proposes that the 4-year condition/performance be reported

to represent the actual condition/performance derived from the latest measured condition/performance through the end of a performance period. Considering the first performance period is proposed to begin on January 1, 2016, the 4-year condition/performance for this performance period would be the most recent conditions/performance that represents actual conditions/performance through December 31, 2019 (illustrated in Figure 4). As an example, the Percentage of pavements of the Interstate System in Good condition measure (in § 490.307(a)(1)), would be a percentage of lane-miles of the Interstate System in Good condition (§ 490.307(f)(2)) expressed in one tenth of a percent. Thus, FHWA proposes that a 4-year condition/performance for this measure would be a percentage of lane-miles of the Interstate System in Good condition expressed in one tenth of a percent. As a hypothetical example, 4-year condition/performance would be 37.7% for the proposed measure Percentage of pavements of the Interstate System in Good condition.

The FHWA proposes in § 490.107(b)(3)(ii)(B), that the State DOTs would also include a discussion of progress made toward the achievement of 4-year targets established for the relevant performance period. In this discussion, State DOTs would present a comparison of 4-year condition/performance with the 4-year targets that were established for the performance period. For example, in the first Full Performance Period Progress Report in 2020, a State would compare the actual condition/performance through 2019 with the 4-year targets established for the first performance period and discuss why targets were or were not achieved. This discussion could describe accomplishments achieved, planned activities, circumstances that led to actual conditions/performance or any other information that State DOT would feel would adequately explain progress. Although this explanation would not be used in the determination of significant progress, this information would be made available to the public to provide an opportunity for the State DOT to discuss actual outcomes achieved.

The FHWA proposes in § 490.107(b)(3)(ii)(C) that, in each Full Performance Period Progress Report, State DOTs would include discussion on the effectiveness of the investment strategy documented in the State asset management plan for the NHS. The FHWA is reserving § 490.107(b)(3)(ii)(D). The statutory requirement for State DOTs to include a discussion on ways in which State DOTs are addressing congestion at freight bottlenecks, including those identified in the National Freight Strategic Plan, will be addressed in the third Performance Measure NPRM. This content is required as part of the report under 23 U.S.C. 150(e)(2) and (4).

In § 490.107(b)(3)(ii)(E), FHWA proposes that the State DOTs would discuss the progress they have made toward the achievement of the 4-year targets reported in the current Baseline Performance Period Report, or adjusted in the current Mid Performance Period Progress Report, that would had been established for the NHPP measures specified in § 490.105(c)(1) through (3).[52] Additionally, State DOTs would provide information to discuss how the actual 4-year condition/performance levels compare with the NHPP targets. Although this discussion would not be used in the determination of significant progress for the NHPP, this information would be made available to the public to provide an opportunity for the State DOT to discuss actual outcomes related to the NHPP. For example, the State DOT may use this discussion to explain how they effectively and efficiently delivered a program designed to achieve targets and how this may have resulted in actual condition/performance improvements for the NHPP.

In § 490.107(b)(3)(ii)(F), FHWA is proposing that State DOTs would report any factors that it could not have foreseen and were outside of their control that impacted its ability to make significant progress for the NHPP 4-year targets. This discussion would be used by FHWA to consider the application of the proposed consideration of extenuating circumstances discussed in § 490.109(e)(5).

In § 490.107(b)(3)(ii)(G), FHWA proposes that if FHWA determines that a State DOT has not made significant progress toward the achievement NHPP targets, in two consecutive biennial FHWA determinations, then the State DOT would include a description of the actions they would undertake to better achieve NHPP targets as required under 23 U.S.C. 119(e)(7). For example, if either of the NHS bridge condition targets did not make significant progress in previous two determinations (determination at the end of previous performance period and determination at the midpoint of current performance period), then the State DOT would include in the current Full Performance Period Report) a description of the actions the State DOT will undertake to improve conditions with respect to both Interstate pavement condition measures. If FHWA determines that the State DOT has achieved significant progress, then the State DOT does not need to include such description in the Full Performance Period Progress Report.

The FHWA proposes, in § 490.107(c), that MPOs document the manner in which they report their established targets within the Metropolitan Planning Agreement required by 23 CFR 450. The MPOs would report their established targets to the relevant State DOTs in a manner that is agreed upon by both parties and documented in the Metropolitan Planning Agreement. The FHWA proposes in § 490.105(e)(5), that MPOs would report targets to the State DOT in a manner that would allow the State DOT to provide FHWA, upon request, all of the targets established by relevant MPOs. The FHWA also proposes that MPOs would report baseline condition/performance, and progress toward the achievement of their targets, in the system performance report in the metropolitan transportation plan, in accordance with 23 CFR 450.

Discussion of § 490.109 Assessing Significant Progress Towards Achieving the Performance Targets for the NHPP

In § 490.109, FHWA proposes the method by which FHWA would determine if a State DOT has achieved or is making significant progress toward the achievement of their NHPP performance targets as required by 23 U.S.C. 119(e)(7). Although this determination could directly impact State DOTs, MPOs could also be indirectly impacted as a result of the link between metropolitan and statewide planning and programming decisionmaking. This rulemaking discusses the approach that would be taken by FHWA to assess State DOT performance progress, but does not include a discussion on the method that may be used by FHWA to assess the performance progress of MPOs. Interested persons should refer to the updates to the Statewide and Metropolitan Planning regulations for any discussions on the review of MPO performance progress. (RIN 2125–AF52).[53]

The FHWA recognizes the risks associated with target establishment and that there may be factors outside of a State DOT's control that could impact its ability to achieve a target. A number

[52] The performance measures for performance of the Interstate System and performance of the non-Interstate NHS will be proposed in the third performance measures NPRM.

[53] The NPRM was published on June 2, 2014 at 79 FR 31784.

of factors were raised as part of the performance management stakeholder outreach sessions regarding target establishment and progress assessment, including: the impact of funding availability on performance outcomes, the reliability of the current state-of-practice to predict outcomes resulting from investments at a system level, the impact of uncertain events or events outside the control of a State DOT on performance outcomes, the need to consider multiple performance priorities in making investment trade-off decisions, and the challenges with balancing local and national objectives. The FHWA considered these risks and factors in its evaluation of different approaches to implement this provision.

The FHWA recognizes that the State DOTs and MPOs have to consider multiple performance priorities in making investment trade-off decisions and that there are challenges with balancing local and national objectives. During outreach, stakeholders raised a number of concerns regarding progress assessment, including: [54]

- The desire to foster balanced and sound decisions rather than focusing on achieving one target at the expense of another;
- the desire to assess progress using quantitative and qualitative input; and
- the desire to avoid unachievable targets.

Thus, FHWA plans to implement an approach that balances the uncertainty facing State DOTs in predicting future performance with the need to provide for a fair and consistent process to determine compliance. The approach being proposed by FHWA is based on the following principles:

- Focus the Federal-aid highway program on the MAP–21 national goals in 23 U.S.C. 150(b); and
- recognize that State DOTs need to consider fiscal constraints in their target establishment.

Because targets would be established for an entire system, FHWA acknowledges that State DOTs may make small incremental changes within that system that would not necessarily appear in a quantitative assessment. In some instances, even a modest increase in improvement when evaluating on a system-wide basis, would constitute significant progress. Accordingly, FHWA proposes that for each NHPP target, progress toward the achievement of the target would be considered ''significant'' when either of the following occur: The actual condition/performance level is equal to or better than the State DOT established target; or actual condition/performance is better than the State DOT identified baseline condition/performance. The FHWA believes that any improvement over the baseline, which represents a 0.1% improvement over 4 years, should be viewed as significant progress considering the fiscal short falls and financial uncertainties many State DOTs are faced with today. Although a change of 0.1% may appear insignificant, this degree of improvement to a pavement or bridge system is difficult to achieve. In many States this level of change would require improvements to hundreds, if not thousands, of miles of pavements and/or bridges. The FHWA reviewed the extent to which State DOTs have been able to actually change system conditions of their pavements and bridges in recent years to validate this view of significant progress. This review supported FHWA's belief that any improvement should be considered significant as many State DOTs have seen minimal or no improvements in the condition of their pavement and bridge networks in recent years. This is the case even with the influx of funding State DOTs were able to utilize through the American Recovery and Reinvestment Act of 2009. For these reasons, FHWA believes that any improvement over the baseline should be viewed as significant progress.

The FHWA believes that State DOTs would, through a transparent and public process, want to establish or adjust targets that strive to improve the overall performance of the Interstate and National Highway systems. For this reason, FHWA did not want to consider an approach to determine significant progress that would be difficult to meet as it could discourage the establishment of ''reach'' targets due to the perceived unmanageable risks that would need to be assumed by State DOTs. The FHWA feels that the progress assessment approach proposed in this NPRM, which considers improvement from baseline conditions to be significant, would not discourage State DOTs from establishing targets to improve the overall conditions of the Interstate System and non-Interstate NHS.

The FHWA therefore proposes a three-step process to determine if a State DOT has made significant progress toward the achievement of their NHPP targets. This proposed process would be completed by FHWA each time the State DOT submits their Mid Performance Period Progress Report and their Full Performance Period Progress Report. The FHWA proposes that the significant progress determination process for two consecutive reporting periods would be done on an ongoing basis and would not restart at the beginning of each performance period.[55]

- Step 1: The State DOT would evaluate and report the progress they have made toward the achievement of each target.[56] This evaluation would be documented in the discussion of the progress achieved since the most recent report. The State DOT would document in their Biennial Performance Reports any extenuating circumstances outside their control they may have impacted their ability to achieve progress.
- Step 2: The FHWA would review the completeness of the content provided in their Biennial Performance Reports and would determine if any documented extenuating circumstances would be considered. State DOTs would provide any additional information to FHWA, upon request, if the report is incomplete.
- Step 3: The FHWA would determine if the State DOT has made significant progress for each target using the following sources:
  - Data contained within the HPMS for targets established for pavement condition measures, as specified in § 490.105(c)(1) and (2);
  - Data contained in the NBI for targets established for bridge condition measures, as specified in § 490.105(c)(3); and

In § 490.109(a), FHWA proposes that it would determine whether the State DOT has achieved or has made significant progress toward achieving each of the State DOT targets for the NHPP measures separately.

The FHWA proposes in § 490.109(b) that FHWA would determine whether a State DOT has or has not made significant progress toward the achievement of NHPP targets at the midpoint and the end of each performance period.

In § 490.109(c), FHWA proposes that FHWA would determine significant progress toward the achievement of a State DOT's NHPP targets after the State

[54] AASHTO (2013), *SCOPM Task Force Findings on MAP–21 Performance Measure Target-Setting. http://scopm.transportation.org/Documents/SCOPM%20Task%20Force%20Findings%20on%20Performance%20Measure%20Target-Setting%20FINAL%20v2%20(3-25-2013).pdf.*

[55] For example, assuming a determination would be made in 2021, that period-end determination for 1st performance period would be based on information submitted in the 2016 Mid Performance Period Report and the 2020 Full Performance Period Report. The next determination made in 2023 would be based on information submitted in the 2020 Baseline Performance Period Report/2022 Mid Performance Period Progress Report Performance Period Report and the 2020 Full Performance Period Report.

[56] The performance measures for performance of the Interstate System and performance of the non-Interstate NHS will be proposed in the third performance measures NPRM.

DOT submittal of the Mid Performance Period Progress Report and after the State DOT submittal of the Full Performance Period Progress Report. This process, which is described in the discussion of § 490.107(b), would follow the proposed schedule illustrated in Figures 3 and 4. The FHWA would make a significant progress determination for the NHPP every 2 years. The FHWA would notify all State DOTs of the outcome of the determination within a reasonable time and would advise any State DOTs that would need to add additional information to their next biennial report (see 450.109(f)). The FHWA intends to post State DOT targets, actual condition, and progress reports on an externally facing Web site. This information would provide for greater transparency and allow the public access to the progress State DOTs have made in achieving their targets. The FHWA does not intend to post the significant progress determinations on the Web site but will make this information available in an electronic format on request.

The FHWA also expects that during a performance period, State DOTs would routinely monitor leading indicators, such as program delivery status, to assess if they are on track to make significant progress toward achievement of a State DOT's NHPP targets. If a State DOT anticipates it may not make significant progress, it is encouraged to work with FHWA and seek technical assistance during the performance period to identify the actions that can be taken to improve progress toward making significant progress. The FHWA also seeks comment on whether it should require State DOTs to more frequently (*e.g.,* annually) evaluate and report the progress they have made.

The FHWA desires to use national datasets in a consistent manner as a basis for its determination of a State DOT's significant progress toward the achievement of NHPP targets. The FHWA is proposing to determine actual pavement and bridge conditions from the HPMS and NBI, respectively, in a manner that could be replicated by State DOTs and others that may have interest in assessing actual pavement and bridge conditions. Thus, in § 490.109(d), FHWA proposes to use: The HPMS as the data source to determine actual pavement conditions; the NBI as the data source to determine actual bridge condition measures; and NHS limits and urbanized area boundaries identified in the Baseline Performance Period Report. The data source for performance of the Interstate System and the non-Interstate NHS measures will be proposed in the third Federal-aid Highway Performance Measures NPRM.

The FHWA is proposing a period of approximately 60 days for Interstate pavements and bridges and 90 days for non-Interstate NHS pavements and bridges after the State DOT submits data to the HPMS and NBI for the State DOT to update the data to address missing or incorrect data. Considering this time allowance, FHWA is proposing that specific dates be established to extract data from the HPMS and NBI. The FHWA would use this data to determine significant progress toward the achievement of NHPP targets and assess the pavement and bridge minimum condition. These dates are necessary in order to make significant progress determinations in a timely manner and to determine compliance with the minimum condition requirements in sufficient time to apply any resulting obligation, transfer, or set-aside requirements by the next fiscal year. The FHWA is proposing the following dates to extract data from the HPMS and the NBI to determine actual conditions:

- June 15—The FHWA is proposing to extract data from the HPMS and the NBI on this date to determine the actual Interstate System pavement conditions and NHS bridge conditions. This date is needed to provide for sufficient time to carry out any penalties resulting from non-compliance with the minimum condition requirements in 23 U.S.C. 119(f);
- August 15—The FHWA is proposing to extract data from the HPMS on this date to determine the actual non-Interstate NHS pavement conditions. This date is needed to provide for sufficient time to make a determination of significant progress for the achievement of NHPP targets.

In § 490.109(e), FHWA proposes a process for significant progress determination for each established NHPP target. In paragraph (e)(1), FHWA proposes that FHWA would assess how the target established by State DOT compares to the actual condition/performance using the data/information sources described in § 490.109(d). In paragraph (e)(2), FHWA proposes that FHWA would determine that a State DOT has made significant progress for each 2-year or 4-year NHPP target if either: (i) The actual condition/performance level is better than the baseline condition/performance reported in the State DOT Baseline Performance Period Report; or (ii) the actual condition/performance level is equal to or better than the established target. For illustrative purposes, 2-year and 4-year evaluations where improving targets were established for the first performance period are shown in Figure 5.

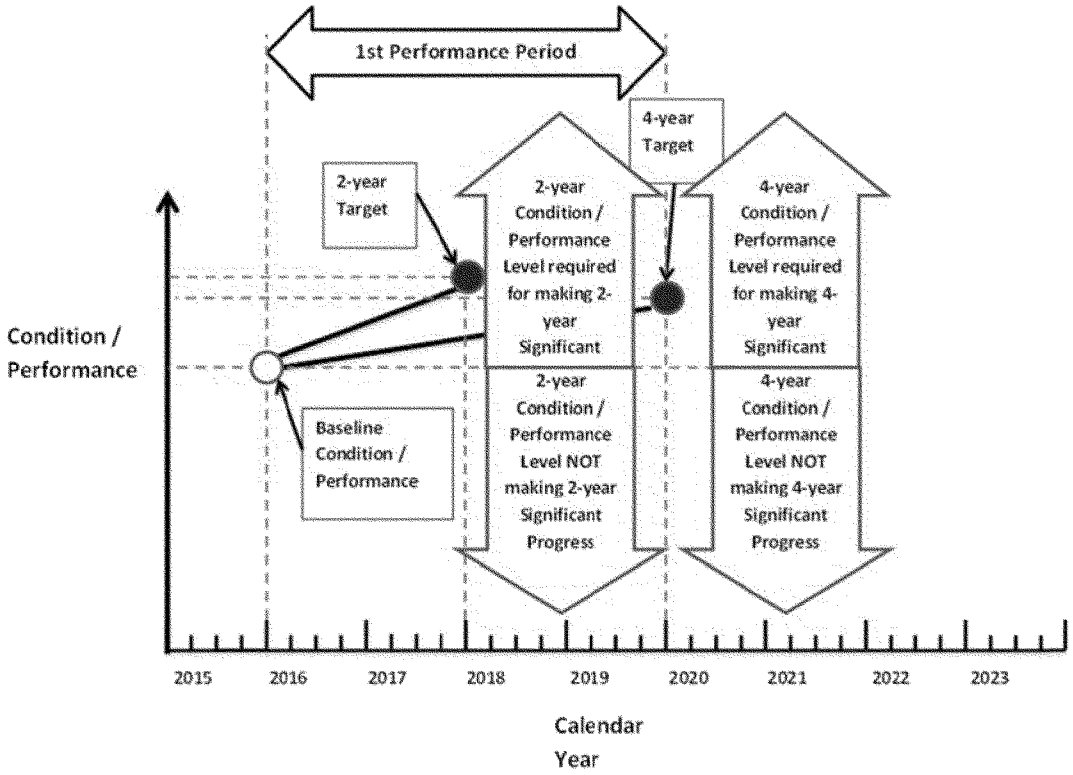

Figure 5 – First Performance Period: 2- and 4-year Significant Progress Determination for a 2-and 4-year target (anticipated improving scenario)

The FHWA recognizes that State DOTs have to consider their fiscal constraints in target establishment and acknowledges that, in some cases, anticipated condition/performance could be projected to decline from (or sustain) the baseline condition/performance due to lack of funding, changing priorities, etc. In these cases State DOTs should document why they project a decline in condition in their Biennial Performance Reports as discussed in paragraph § 490.107(b)(1)(ii)(A). The FHWA proposes that significant progress could still be made in cases where the established target indicates a decline from (or sustain) the baseline condition/performance. For the decline/sustain condition/performance scenario, FHWA proposes that significant progress is made for a target when actual condition/performance level is equal to or exceeds the target. For illustrative purposes, 2-year and 4-year evaluations where declining targets were established for the first performance period are shown in Figure 6.

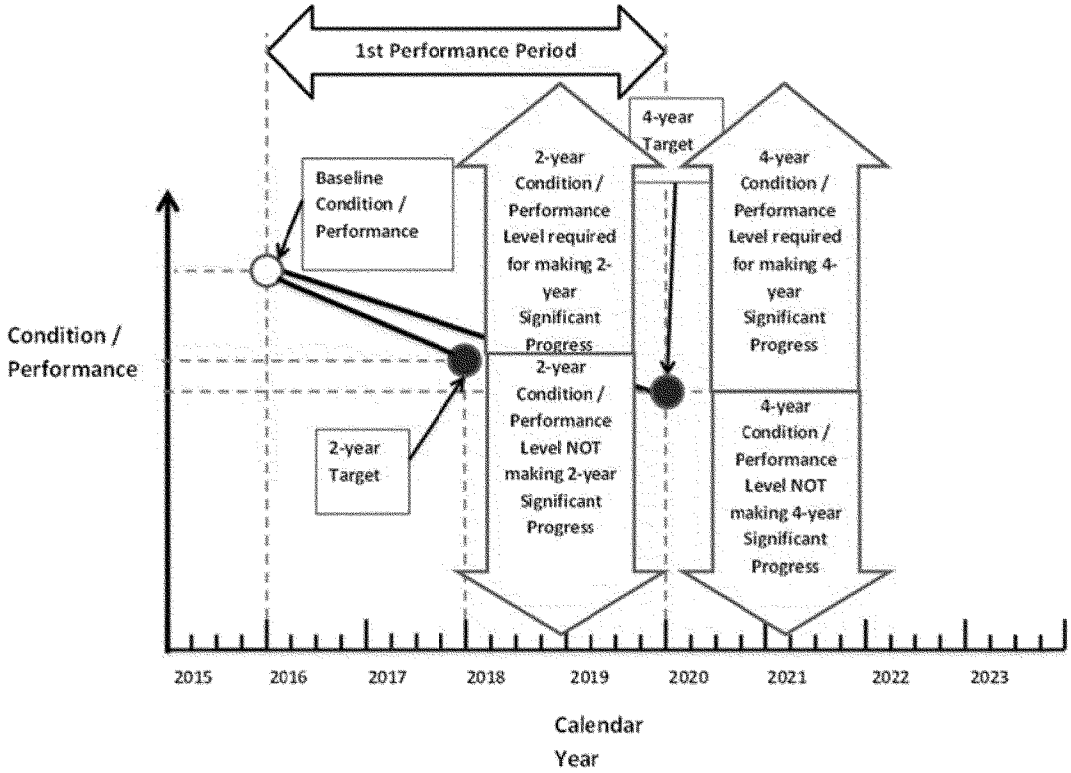

Figure 6 - First Performance Period: 2-and 4-year Significant Progress Determination for a 2-and 4-year target (anticipated decline/sustain scenario)

As discussed in § 490.105(e)(7), FHWA recognizes that some State DOTs may not be able to collect the data required in § 490.309(b)(1) for the Interstate System pavement condition prior to the start of the first performance period. Considering this limitation, FHWA proposed in § 490.109(e)(3) that for the first performance period, the State DOTs would not be required to report their 2-year targets and their baseline condition for the Interstate System pavement condition measures at the beginning of the first performance period. Consequently, FHWA proposes in § 490.109(e)(3) that progress towards the achievement of 2-year targets for the Interstate System pavement condition measures would not be subject to the FHWA determination under § 490.109(e)(2), even if they elect to collect the data needed to calculate the Interstate System pavement measures in the first 2 years of the first performance period.

The FHWA proposes to accomplish this by categorizing the 2-year targets for the Interstate System pavement condition measures as ''progress not determined,'' which would exclude these targets from the FHWA determination under § 490.109(e)(2). The FHWA expects that some State DOTs would adjust their established 4-year targets at the midpoint of the first performance period because they may have had limited baseline data available to them when they first established the target. For the first performance period, FHWA would determine significant progress toward the achievement of a State DOT's Interstate System pavement condition targets based on HPMS data extracted on June 15 of the year in which the Full Performance Period Progress Report is due. The FHWA recognizes that some State DOTs would be able to establish and report baseline condition and 2-year targets for the proposed Interstate System pavement condition measures in their first Baseline Performance Period Report. However, FHWA proposes that the process established in this section applies to all State DOTs in order to ensure uniformity in the progress determination process.

In § 490.109(e)(4), FHWA proposes that if a State DOT does not provide sufficient data and/or information for FHWA to make a significant progress determination for NHPP target(s), then that State DOT would be deemed to not have made significant progress made for those individual NHPP target(s).

If a State DOT encounters extenuating circumstances beyond its control, the State DOT would document the explanation of the extenuating circumstances in the biennial performance report. This explanation would address factors that the State DOT could not have foreseen and were outside of their control when they established targets at the beginning of the performance period. If the explanation is accepted by FHWA, then the associated NHPP target(s) would be excluded from FHWA determination under § 490.109(e)(2). If the explanation is not accepted by FHWA, then the State DOT would be deemed to not have made significant progress for the target. Extenuating circumstances would include:

- Natural or man-made disasters causing delay in NHPP project delivery, extenuating delay in data collection, and/or damage/loss of data system;
- sudden discontinuation of Federal Government furnished data due to natural and man-made disasters or lack of funding; and/or
- new law or regulation directing State DOTs to change metric and/or measure calculation.

Pursuant to 23 U.S.C. 119(e)(7), in § 490.109(f), FHWA proposes that if FHWA determines that a State DOT has not made significant progress for an NHPP targets in two consecutive FHWA determinations, then the State DOT

would include in its next Biennial Performance Report a description of the actions the State DOT will undertake to achieve all targets in same measure group. The FHWA proposed the measure groups as follow:

- Interstate System pavement condition—both proposed measures Percentage of pavements of the Interstate System in Good condition in § 490.307(a)(1) and Percentage of pavements of the Interstate System in Poor condition in § 490.307(a)(2);
- Non-Interstate NHS pavement condition—both proposed measures Percentage of pavements of the non-Interstate NHS in Good condition in § 490.307(a)(3) and Percentage of pavements of the non-Interstate NHS in Good condition in § 490.307(a)(4);
- NHS bridge condition—both measures Percentage of NHS bridges in Good condition in § 490.407(c)(1) and Percentage of NHS bridges in Poor condition in § 490.407(c)(2);

As a general example of this proposed approach, when a State DOT has not made significant progress for any one of the targets for Interstate System pavement condition measures, then that State DOT would include in its next Biennial Performance Report a description of the actions the State DOT will undertake to achieve targets for all Interstate System pavement condition measures.

Tables 2 and 3 illustrate this proposed determination method. Table 2 includes the significant progress determination results in 2019 for the midpoint 1st performance period and the significant progress determination in 2021 for the end of the 1st performance period. Table 3 includes the significant progress determination results in 2021 for the end of the 1st performance period (repeat from Table 2) and the significant progress determination in 2023 for the midpoint 2nd performance period. In this example, a State DOT has established statewide targets, as required, for 2 measures: Percentage of pavements in Good Condition on the Interstate System and Percentage of pavements in Poor Condition on the Interstate System.

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Table 2 – Example of Significant Progress Determinations in 2019 and 2021

Measure	Baseline Condition / Performance for the 1st Performance Period	Significant Progress Determination for the midpoint 1st Performance Period in 2019			Significant Progress Determination for the end of the 1st Performance Period in 2021			Measure Group
		2-year target	Actual 2-year Condition / Performance	Significant progress made at the midpoint?	4-year target	Actual 4-year Condition / Performance	Period-end Significant progress made at the end of period?	
The Percentage of pavements in Good Condition on Interstate System – **statewide**	**40.0%**	*39.5%*	39.2%	**No**	*38.5%*	37.7%	**No**	Interstate System pavement condition
The Percentage of pavements in Poor Condition on Interstate System– **statewide**	**7.0%**	*5.9%*	6.2%	**Yes** by actual better than the baseline	*5.2%*	6.0%	**Yes** by actual better than the baseline	
Percentage of pavements in Good Condition on non-Interstate NHS – **statewide**	**35.0%**	*34.4%*	34.4%	**Yes** by achieving the 2-year target	*33.3%*	33.4%	**Yes** by achieving the 4-year target	Non-Interstate NHS pavement condition
Percentage of pavements in Poor Condition on non-Interstate NHS – **statewide**	**3.8%**	*2.9%*	2.9%	**Yes** by achieving the 2-year target	*2.3%*	2.2%	**Yes** by achieving the 4-year target	
Percentage of NHS bridges in Good Condition – **statewide**	**35.0%**	*34.5%*	34.9%	**Yes** by achieving the 2-year target	*34.0%*	33.4%	**No**	NHS Bridge condition

Measure	Baseline Condition / Performance for the 1st Performance Period	Significant Progress Determination for the midpoint 1st Performance Period in 2019			Significant Progress Determination for the end of the 1st Performance Period in 2021			Measure Group
		2-year target	Actual 2-year Condition / Performance	Significant progress made at the midpoint?	4-year target	Actual 4-year Condition / Performance	Period-end Significant progress made at the end of period?	
Percentage of NHS bridges in Poor Condition – **statewide**	**10.0%**	*9.3%*	8.9%	**Yes** by achieving the 2-year target	*7.5%*	8.5%	**Yes** by actual better than the baseline	
The performance of Interstate System measure (TBD[57])								
The performance of non-Interstate NHS measure (TBD[58])								

[57] To be included in the 3rd Performance Measure NPRM
[58] To be included in the 3rd Performance Measure NPRM

In Table 2 above, the State DOT has not made significant progress towards the target for the Percentage of pavements in Good Condition on the Interstate System measure in two consecutive FHWA determinations. So the State DOT would include in its next Biennial Performance Report (*i.e.* Mid Performance Period Progress Report in 2022) a description of the actions the State DOT will undertake to achieve for both measures—the Percentage of pavements in Good Condition on Interstate System and the Percentage of pavements in Poor Condition on Interstate System measures.

The FHWA believes that any one of the targets could impact other targets in the same measure group and FHWA also believes that the State DOT's descriptions of the actions for all targets in a same measure group would be more logical and sensible in managing performance of relevant network (*e.g.* the entire Interstate System) rather than isolated description on a subset of network (*e.g.* pavements in Good Condition on Interstate System). So, FHWA proposes that a State DOT would provide a description of the actions the State DOT will undertake to achieve all targets in the same measure group.

As indicated in the previous discussion in § 490.109, FHWA would make the significant progress determination each time the State DOT submits its State DOT Mid Performance Period Progress Report and its State DOT Full Performance Period Progress Report. The FHWA proposes that the significant progress determination would be done on an ongoing/rolling basis and would not restart at the beginning of each performance period. So in this example, 2 consecutive reporting would also be the significant progress determination results in 2021 for the end of the 1st performance period (repeat from Table 2) and the significant progress determination in 2023 for the midpoint 2nd performance period. Note 4-year condition/performance of the 1st performance period is the baseline condition/performance of the 2nd performance period.

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Table 3 – Example of Significant Progress Determinations in 2021 and 2023

Measure	Baseline Condition / Performance for the 1st Performance Period	Significant Progress Determination for the end of the 1st Performance Period in 2021[59]			Baseline Condition / Performance for the 2nd Performance Period	Significant Progress Determination for the midpoint 2nd Performance Period in 2023			Measure Group
		4-year target	Actual 4-year Condition / Performance	Significant progress made at the end of period?		2-year target	Actual 2-year Condition / Performance	Significant progress made at the midpoint?	
The Percentage of pavements in Good Condition on Interstate System – **statewide**	**40.0%**	*38.5%*	37.7%	**No**	**37.7%**	*39.5%*	39.9%	**Yes** by achieving the 2-year target	Interstate System pavement condition
The Percentage of pavements in Poor Condition on Interstate System– **statewide**	**7.0%**	*5.2%*	6.0%	**Yes** by actual better than the baseline	**6.0%**	*5.6%*	5.6%	**Yes** by achieving the 2-year target	
Percentage of pavements in Good Condition on non-Interstate NHS – **statewide**	**35.0%**	*33.3%*	33.4%	**Yes** by achieving the 4-year target	**33.4%**	*32.4%*	32.5%	**Yes** by actual better than the baseline	Non-Interstate NHS pavement condition
Percentage of pavements in Poor Condition on non-Interstate NHS – **statewide**	**3.8%**	*2.3%*	2.2%	**Yes** by achieving the 4-year target	**2.2%**	*2.1%*	2.0%	**Yes** by achieving the 2-year target	
Percentage of NHS bridges in Good Condition – **statewide**	**35.0%**	*34.0%*	33.4%	**No**	**33.4%**	*33.0%*	32.7%	**No**	NHS Bridge condition

[59] Repeat from Table 2

Measure	Baseline Condition / Performance for the 1st Performance Period	Significant Progress Determination for the end of the 1st Performance Period in 2021[59]			Baseline Condition / Performance for the 2nd Performance Period	Significant Progress Determination for the midpoint 2nd Performance Period in 2023			Measure Group
		4-year target	Actual 4-year Condition / Performance	Significant progress made at the end of period?		2-year target	Actual 2-year Condition / Performance	Significant progress made at the midpoint?	
Percentage of NHS bridges in Poor Condition – **statewide**	**10.0%**	*7.5%*	8.5%	**Yes** by actual better than the baseline	**8.5%**	*7.3%*	7.5%	**Yes** by actual better than the baseline	
The performance of Interstate System measure (TBD[60])									
The performance of non-Interstate NHS measure (TBD[61])									

[60] To be included in the 3rd Performance Measure NPRM
[61] To be included in the 3rd Performance Measure NPRM

BILLING CODE 4910–22–C

In Table 3, the State DOT has not made significant progress towards the Percentage of NHS bridges in Good Condition measure in two consecutive FHWA determinations. So the State DOT would include in its next Biennial Performance Report (*i.e.* Full Performance Period Progress Report in 2024) a description of the actions the State DOT will undertake to achieve statewide targets for both measures Percentage of NHS bridges in Good Condition and Percentage of NHS bridges in Poor Condition.

Although State DOTs are required to include a description of the actions the State DOT will undertake to achieve targets in its next Biennial Performance Report to meet the requirement in 23 U.S.C. 119(e)(7) and paragraph (f) of this section, State DOTs should not wait until next Biennial Performance Report in taking necessary actions. As discussed in § 490.107(b)(2)(ii)(F) and (b)(3)(ii)(E), all State DOTs are required to discuss the progress they have made toward the achievement of targets established for the NHPP measures in each of their Biennial Performance Report. Thus, FHWA expects State DOTs would routinely monitor leading indicators, such as program delivery status and measured data, to assess if they are on track to make significant progress for a State DOT's NHPP targets and expects State DOTs to be aware of their progress prior to the time of each Biennial Performance Report. As discussed in § 490.109(c), if a State DOT anticipates it may not make significant progress, they are encouraged to work with FHWA and seek technical assistance during the performance period to identify the actions that can be taken in a timely manner to improve progress toward making significant progress for the targets reported in subsequent Biennial Performance Reports. Thus, in § 490.109(f)(6), FHWA proposes that the State DOT should, within 6 months of the significant progress determination and in a format that can be made available to FHWA, document the information specified in this section to ensure actions are being taken to improve progress.

Discussion of § 490.111 Incorporation by Reference

In § 490.111, FHWA proposes to incorporate by reference a number of items. First, FHWA proposes to incorporate the proposed HPMS Field Manual to codify the data requirements for measures, as discussed throughout Part 490, and to be consistent with HPMS reporting requirements. The proposed HPMS Field Manual includes detailed information on technical procedures to be used as reference by those collecting and reporting data for the proposed measures. The proposed HPMS Field Manual is included in the docket.

The FHWA also proposes to incorporate by reference 10 AASHTO standards to codify the method and/or the device used to collect data for the metrics (*i.e.,* IRI, Cracking_Percent, rutting, and faulting). These AASHTO Standards were developed and adopted

by the AASHTO member States as appropriate national standard practices for collecting and reporting pavement and other condition data. The incorporated standards are included in the ''Standard Specifications for Transportation Materials and Methods of Sampling and Testing, 34th Edition and AASHTO Provisional Standards, 2014 Edition,'' which is available for purchase at: *https://bookstore.transportation.org/item_details.aspx?ID=2223*. The FHWA believes that the entities most affected by this proposed regulation, namely State DOTs and MPOs, already own a copy of the incorporated AASHTO standards.

Lastly, FHWA proposes to incorporate by reference the ''Recording and Coding Guide for the Structure Inventory and Appraisal of the Nation's Bridges,'' which contains all of the NBI Items listed in subpart D. This guide is intended for use by States, Federal agencies, Tribal governments and other bridge owners in recording and coding the data items that comprise the NBI. The Guide is available at no charge on the FHWA Web site at: *http://www.fhwa.dot.gov/bridge/nbi.cfm,* and is also included in the docket.

A copy of all of the incorporated documents outlined above will be on file and available for inspection at the National Archives and Records Administration. These documents will also be available for viewing at the Department of Transportation Library.

B. Section-by-Section Discussion for Subpart C: NHPP Measures for Assessing Pavement Condition

Discussion of § 490.301 Purpose

This section describes the general purpose of the proposed subpart: To implement certain portions of 23 U.S.C. 150(c) that require FHWA to establish performance measures to assess the condition of pavement on the Interstate System, performance measures to assess the condition of pavement on the non-Interstate NHS, minimum levels for the condition of pavement on the Interstate System, pavement data elements that are necessary to collect and maintain standardized data to carry out a performance-based approach, and consider regional differences in establishing the minimum levels for pavement condition.

Discussion of § 490.303 Applicability

The FHWA proposes to specify pavement condition performance measures that would be applicable to all mainline Interstate System and non-Interstate NHS pavements covered under 23 U.S.C. 119 regardless of ownership or maintenance responsibility. Specifically excluded are ramps, shoulders, turn lanes, crossovers, rest areas, and non-normally traveled pavement surfaces that are not part of the roadway normally traveled by through traffic.

Discussion of § 490.305 Definitions

The FHWA proposes a set of definitions that are specific only to this subpart. The FHWA proposes to include definitions for three types of pavements: ''asphalt pavements,'' ''Continuously Reinforced Concrete Pavement (CRCP),'' and ''Jointed Concrete Pavements,'' because data requirements and metrics for the proposed measure are dependent on surface type of pavement. The FHWA recognizes some pavements are composite pavements that consist of multiple pavement types, such as an asphalt pavement overlay over an older jointed concrete pavement. The FHWA believes it is sufficient for the purpose of this rulemaking and for improved consistency to consider the pavement type of any composite pavement as the pavement type that exists in the surface of the structure (or the top-most layer).

The need for consistent definitions was reinforced by a national study on pavement roughness [62] and a regional study on highway infrastructure health.[63] These studies found that both measured roughness and distress data are not consistently collected and reported by State DOTs across the country. The FHWA is addressing this need by proposing definitions for cracking, faulting, IRI, punchout, and rutting.[64]

The FHWA proposes to define ''Cracking'' as a metric that would be used for determining pavement condition and a definition for ''Cracking Percent'' that would be used to express the percentage of cracking exhibiting in a pavement surface. The FHWA proposes to define ''Cracking Percent'' separately for each type of pavement.

The FHWA proposes to define ''Faulting'' and ''International Roughness Index'' to avoid confusion with any other uses of these terms as these pavement conditions are broadly defined. The FHWA believes that these proposed definitions would provide greater consistency for characterizing pavement condition for the proposed measure.

For purposes of this subpart, the FHWA proposes to define ''pavement'' as any hard surfaced travel lanes of any highway. While there are many definitions currently in practice, FHWA selected this proposed definition because it focuses on the surface of the pavement, which is what would actually be measured and evaluated to assess pavement condition. The FHWA proposes to include the definition of ''Pavement Surface Rating (PSR)'' because PSR values were previously permitted to be submitted in the HPMS in lieu of IRI, if IRI values were not available or obtainable. Under this proposal, PSR could not be used in lieu of IRI to measure or rate NHS pavement condition.

The FHWA proposes to include the definition of ''punchout'' as a pavement failure specific to CRCP condition that needs to be evaluated for the performance measures.

The FHWA proposes to define ''rutting'' because it is another pavement failure condition that needs to be evaluated for the performance measures.

The FHWA proposes to include the definition of ''sampling'' because it is an approach to data collection that is referenced in this NPRM. The sampling of some pavement condition data that is currently permitted on non-Interstate NHS routes would be discussed in this subpart.

Discussion of § 490.307 National Performance Management Measures for Assessing Pavement Condition

The next several sections discuss the measures that are proposed to assess pavement condition. This first section introduces the proposed measures and the following sections discuss the metrics, data requirements, and processes for calculating the measures. Once the measures have been established by FHWA, they would be used by States and MPOs for the establishment of targets and in the determination of progress toward the achievement of targets for pavement condition. In addition, FHWA would use these measures to assess compliance with the minimum condition of Interstate System pavements as required in 23 U.S.C. 150(c)(3)(A)(iii).

[62] AASHTO (2008). Comparative Performance Measurement: Pavement Smoothness, NCHRP 20–24(37B). *http://onlinepubs.trb.org/onlinepubs/archive/NotesDocs/20-24(37)B_FR.pdf.*

[63] FHWA (2012). Improving FHWA's Ability to Assess Highway Infrastructure Health Pilot Study Report, FHWA–HIF–12–049. *http://www.fhwa.dot.gov/asset/pubs/hif12049/hif12049.pdf.*

[64] More information about the defined terms associated with pavement ''cracking,'' ''faulting,'' ''punchouts,'' ''rutting,'' etc., can be found in the ''Distress Identification Manual'' published by FHWA. See FHWA 2003, Publication No. FHWA–RD–03–031 ''Distress Identification Manual for the *Long-Term Pavement Performance Program.''* *http://www.fhwa.dot.gov/publications/research/infrastructure/pavements/ltpp/reports/03031/03031.pdf.*

The establishment of a measure for pavement condition poses challenges because current State DOT measure definitions and data collection approaches vary across State DOTs and local agencies and there is limited availability of consistent data at a national level. A summary of the challenges associated with developing national measures as documented in national studies [65] [66] is provided below:

• Data items collected varies across agencies.—The data items the State DOTs collect and the frequency with which they are collected, although similar, vary across the agencies. For example, Colorado DOT collects cracking, rutting and IRI, but Florida DOT collects surface distress, faulting, rutting, and IRI.

• Data collection protocols vary across agencies.—While FHWA, AASHTO, and the American Society for Testing and Materials have all issued standards for the terminology, definitions, and data collection techniques, a recent national study indicated that there is still variation in defining types of pavement failures and collection methods used by highway and local transportation agencies. In addition, while fully automated and semi-automated technologies have gained wide acceptance in pavement condition data collection, some State DOTs still use manual surveys (including walking and windshield surveys).

• Data collection coverage varies across State DOTs and local agencies.—The extent of the pavement system that is monitored for condition assessment differs across State DOTs and local agencies where there is no consistency in the number of directions, the number of lanes, and the percentage of system length that are collected. Methods for determining the number and locations of samples vary among different State DOTs and the statistical significance of these sampling techniques is largely unknown.

• Reporting intervals vary across State DOTs.—Pavement condition data is typically aggregated in pavement sections for reporting. The section lengths of pavement condition vary from 0.01 to 1 mile or more depending on State DOT.

• Pavement condition metrics and measures vary across State DOTs.—The State DOTs evaluate the condition and anticipated performance of pavements differently. Not all State DOTs classify pavements as Good, Fair or Poor. The State DOTs that do classify pavements as Good, Fair, or Poor, each have unique definitions for these terms.

• Data Quality Management practices vary among State DOTs from highly elaborate systems to none at all.

Considering these challenges, FHWA proposes to establish the following as part of this rulemaking: (1) State DOTs and MPOs use a set of national measures that are based on broadly accepted metrics to assess pavement conditions; and (2) data elements and consistent data collection and management practices for pavement condition assessment that allow State DOTs and MPOs to continue with most of their current pavement management practices.

In § 490.307, FHWA proposes performance measures to assess the pavement condition of the Interstate System and non-Interstate NHS. The performance measures for pavements on the Interstate System and the non-Interstate NHS would be the Percentages of lane-miles classified in Good and Poor Condition. The State DOTs and FHWA would classify each section of pavement as Good, Fair, or Poor, based on measurements of IRI, percentage of cracking, and either percentage of rutting or faulting in each pavement section. Pavement sections would be uniform in size, except as provided in § 490.311(c)(1), and would be defined using inventory data items that establish the location, number of lanes, surface type, and whether a bridge exists in the section. These measurements would be rated for severity and combined into an overall rating for each section of pavement. The State DOTs would use overall ratings for sections contained in the appropriate highway system to establish targets and report progress toward the achievement of those targets.

The FHWA believes that the inclusion of IRI in the measure is essential to capture the extent that pavement conditions are affecting the operation of the highway. Thus, if IRI is excessive, traffic would operate at slower speeds to avoid damage to vehicles, maintain safety, cause less discomfort to passengers, and avoid damage to cargo. Inclusion of Cracking_Percent, rutting and faulting in the measures captures the extent of pavement structural deterioration and liability for future maintenance and reconstruction. The State DOTs currently use similar measurements and data items in their Pavement Management Systems, but typically use different standards for data collection and different methods for guiding pavement decisions. The FHWA recognizes the importance of standardization of data collection and data management practices and identifies critical data collection practices and methods in § 490.309.

Relationship between § 490.309 (Data Requirements), 490.311 (Calculation of Pavement Metrics), and 490.313 (Calculation of Pavement Management Measures)

The proposed approach to determining pavement measures includes data requirements, methods to determine pavement, and methods to calculate pavement condition. This proposed approach is presented in the next three sections as follows:

• Data Requirements—§ 490.309 outlines the data necessary to determine a set of metrics that would be reported to the HPMS and then used to calculate pavement measures. The type of data to be collected, the methods of data collection, and the extent and frequency of collection are all proposed in this section.

• Pavement Metrics—§ 490.311 describes a set of metrics that would be calculated from the data collected. The proposed pavement metrics would be calculated for sections of highway pavement and reported by the State DOT to the HPMS.

• Pavement Measures—§ 490.313 provides the method to calculate measures using the metrics reported in the HPMS. The State DOTs would use the measures to report the condition of Interstate System and non-Interstate NHS pavements and establish targets and report on progress.

Discussion of § 490.309 Data Requirements

Even before the passage of MAP–21, FHWA and stakeholders recognized the need for standardized data collection. The pavement community (*i.e.,* FHWA, States, local agencies, private industry and academia) is continuing to conduct research to refine and standardize data collection, reporting and production. The following are provided as example of efforts that are underway, or have recently been completed, that support the national pavement performance measure:

• Evaluate differences in State DOTs data sources and the HPMS data sources and provide recommended actions to improve any consistency issues.[67]

• Build on existing work to document the current approaches used by State

[65] NCHRP (2009) Quality Management of Pavement Condition Data Collection, NCHRP Synthesis 401. *http://onlinepubs.trb.org/onlinepubs/nchrp/nchrp_syn_401.pdf.*

[66] FHWA (2013) Practical Guide for Quality Management of Pavement Condition Data Collection. *http://www.fhwa.dot.gov/pavement/management/qm/data_qm_guide.pdf.*

[67] AASHTO led NCHRP project, NCHRP 20–24(82) ''Improving Consistency in HPMS Pavement Data.''

DOTs to rate overall pavement condition and to drive pavement investment decisionmaking.[68] The outcome of this report would recommend approaches that State DOTs can use to develop a national pavement performance measure that has the least impact on current practices to rate condition.

The FHWA is proposing in § 490.309 the data requirements needed to calculate the proposed pavement performance measures, including the incorporation by reference of the FHWA HPMS Field Manual[69] (''HPMS Field Manual'') by reference. These requirements are necessary in order to calculate the pavement conditions measures discussed in § 490.313. The existing HPMS was selected as the reporting mechanism for this proposed subpart because State DOTs are familiar with this data source and its content. In addition, the current HPMS reporting frequency closely aligns with this proposal. The following section discusses the relevant requirements of the Field Manual. Note that definitions and language from the HPMS Field Manual have been used in the subpart to avoid confusion.

In § 490.309(a), FHWA proposes that State DOTs and other local agencies collect data in accordance with the HPMS Field Manual to report four condition metrics: IRI, rutting, faulting, and Cracking_Percent. Nearly all State DOTs[70] currently collect these metrics using similar data collection processes that are based on existing AASHTO Standards and required for HPMS submittals. In addition to the four condition metrics, FHWA proposes that State DOTs provide three HPMS inventory data elements that define the pavement sections used to calculate the proposed pavement condition. These three inventory data elements include: Through Lanes, Surface Type, and Structure Type. The data elements identified in this proposed subpart are considered necessary to collect and maintain standardized data to carry out a performance-based approach as required by 23 U.S.C. 150(c)(3)(A)(iv).

In § 490.309(b), FHWA proposes data requirements that are necessary to calculate the four proposed metrics for pavements on the Interstate System and on the non-Interstate NHS. The proposed requirements in this section define what data would be required to be collected, how extensive the data collection would be, and how often the data would need to be collected. To ensure data consistency between the data collection cycles, FHWA proposes that data would be collected in the rightmost lane of travel, or in one consistent lane if the rightmost lane is not accessible. Additional data collection requirements specified in this section would be more stringent than current HPMS requirements in the following areas:

1. State DOTs would be required to collect data on the full extent of Interstate System to calculate the four metrics and on the full extent of the NHS to identify the three data elements.
2. Beginning in 2018, State DOTs would be required to collect data on the full extent of non-Interstate NHS to calculate the 4 metrics.
3. States DOTs would be required to collect data in both directions of travel of the Interstate System to calculate the four metrics and identify three data elements.
4. States DOTs would be required to collect data on the full Interstate System annually and calculate the four metrics.
5. States DOTs would be required to collect data on the non-Interstate NHS biennially after the transition period ending December 31, 2017.

The FHWA proposes the specific data collection requirements for Interstate System pavements in § 490.309(b)(1) and for non-Interstate NHS pavements in § 490.309(b)(2). The FHWA recognizes that although these proposed data collection requirements would be similar to current HPMS data collection practices, they would, in some aspects, increase the burden on State DOTs to assess pavement condition for national reporting. The FHWA feels that this increased level of effort is necessary to improve consistency and to ensure more accurate and timely reporting of national pavement conditions. Currently, State DOTs typically manage and maintain each direction of the Interstate System as separate roadways and only report in one direction. The FHWA feels that reporting the measurement in both directions is essential to this process.[71]

As part of HPMS submittal, State DOTs have been required to collect and report IRI data on the full length of the NHS annually. In addition, as of 2010, State DOTs have been required to collect and report rutting, Cracking_ Percent, and faulting conditions using a sampling approach for all Federal-aid eligible roadway pavements. Since 2010, FHWA's review of HPMS data submittals has exposed many inconsistencies in State DOT submittals. For the Interstate System several State DOTs have not submitted any Cracking_ Percent, faulting or rutting data; others have submitted data only for a limited portion of the roadway network; and many anomalies have been found in the data that have raised questions regarding the accuracy of the data. Inconsistencies in State DOT submittals are not unexpected. While sampling can be a valid process for handling large quantities of data, it is only representative of actual pavement conditions when it follows a known distribution, such as a normal distribution and the data is collected randomly. Neither of these conditions exist for pavements on the NHS. Collecting data on a truly random basis is not practical or desirable for States to use for managing pavement programs. Furthermore, the States are adopting automated devices for data collection for reasons of objectivity and safety for personnel. Although these devices are not a perfect replacement for manual surveys, they are rapidly developing and are making the need for sampling pavement data obsolete. For these reasons, FHWA is proposing to prohibit the practice of expanding samples to populate the HPMS with data for the full extent of the system. The FHWA wants data collected for the full extent of both the Interstate System and the NHS.

The FHWA recognizes the increased burden imposed on State DOTs for full extent data collection for mainline highways on the non-Interstate NHS. In consideration of this fact, FHWA is proposing in § 490.309(b)(2)(i)(E) to reduce the current frequency of reporting for IRI on the non-Interstate NHS from annual reports to biennial reporting. In addition, FHWA proposes in § 490.309(b)(2)(ii) and (iii) a phased-in approach to comply with data collection requirements of the non-Interstate NHS. This approach allows State DOTs to phase in these new data collection requirement while continuing their existing HPMS reporting practices through the data collection cycle ending on December 31, 2017 (the 2nd Data Collection Cycle in Figure 7 below). By December 31, 2019, all State DOTs would have a completed data collection cycle (the 3rd Data Collection Cycle in Figure 7 below) conforming to the new

[68] AASHTO led NCHRP project, NCHRP 20–24(37J) ''Comparative Study on Pavement Structural Adequacy.''

[69] FHWA (2013) HPMS Field Manual. *http://www.fhwa.dot.gov/policyinformation/hpms/fieldmanual/.*

[70] FHWA (2013) Practical Guide for Quality Management of Pavement Condition Data Collection. *http://www.fhwa.dot.gov/pavement/management/qm/data_qm_guide.pdf.*

[71] FHWA (2012).Improving FHWA's Ability to Assess Highway Infrastructure Health Pilot Study Report, FHWA–HIF–12–049. *http://www.fhwa.dot.gov/asset/pubs/hif12049/hif12049.pdf.*

requirements. In addition to reducing the immediate burden to State DOTs, FHWA proposes this transition period so that it will align with the State DOT biennial performance reporting requirements under 23 U.S.C. 150(e). As proposed in §§ 490.105 and 490.107 on State DOT target establishment and reporting requirements, State DOTs are required to establish targets in Calendar Year 2016 for a performance period ending in December 31, 2019. Thus, the data collected during the data collection cycle ending on December 31, 2019 (the 3rd Data Collection Cycle in Figure 7 below), would be used to: (1) Assess target achievement for the targets established in 2016; and (2) establish a baseline for new targets in 2020 for the performance period ending on December 31, 2023.

In the case of the non-Interstate NHS, a State DOT has a biennial data collection cycle. In the first two data cycles, a State DOT would collect data for the full extent of the system to allow for reporting of the IRI metric for the non-Interstate NHS. However, data collected to support the faulting, rutting, and Cracking_Percent would be required only in sample panels of the system to meet HPMS reporting requirements and would not be required to calculate the pavement condition measure proposed in this rulemaking. Beginning with the third data collection cycle (the latest data collection cycle that ends on December 31, 2019; see Figure 7), and continuing with subsequent cycles, State DOTs would be required to collect data for the full extent of the system to report the IRI, faulting, rutting and Cracking_Percent metrics.

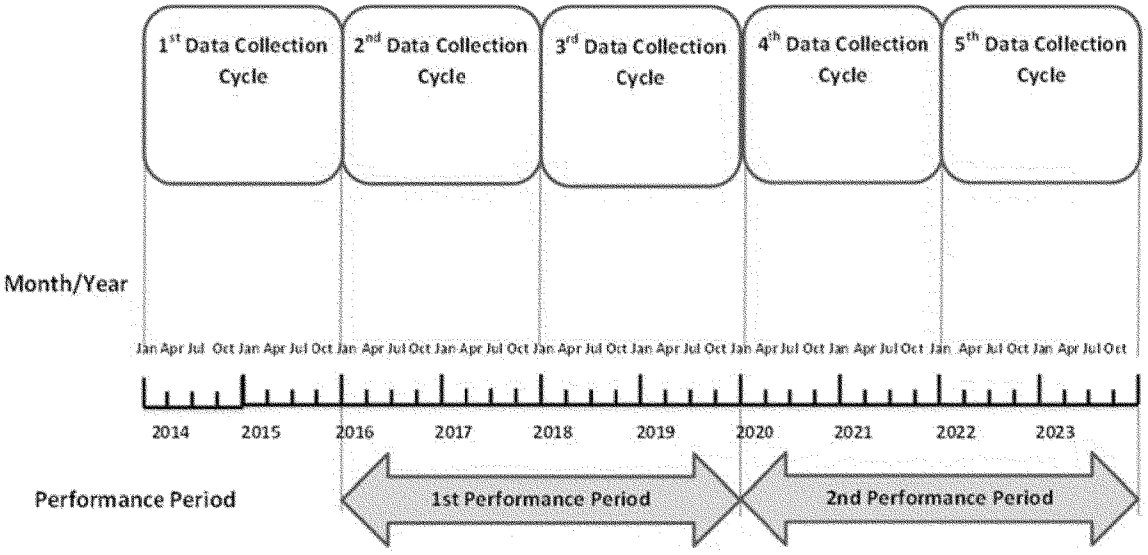


Figure 7 - Biennial Data Collection Cycle Illustration for the non-Interstate NHS

To ensure the collection of data in a consistent manner to provide for credible national performance/condition reporting, FHWA proposes in § 490.309(b)(3) the use of the AASHTO data collection standards for supporting the proposed measure. The section provides specific data collection standards, where appropriate, and incorporates the AASHTO standards by reference. The AASHTO standards are proposed because they are considered as best practices, specifically by State DOTs, and are recognized worldwide. A summary of proposed data collection standards is presented in Table 4.

TABLE 4—A SUMMARY OF PROPOSED DATA COLLECTION STANDARDS

Data metric	Proposed protocol
IRI for all Pavement Types ..	• IRI collection device in accordance with AASHTO Standard M328–14. • Collection of IRI data in accordance with AASHTO Standard R57–14.
Cracking_Percent for all Pavement Types (Except CRCP).	• Either manual cracking data collection and analysis in accordance with AASHTO Standard R55–10 (2013) or Automated Cracking Data Collection and Analysis in accordance with AASHTO Standard PP67–14 and AASHTO Standard PP68–14.
Cracking_Percent for CRCP	• Percentage of pavement surface with longitudinal cracking and/or punchouts, spalling or other visible defects (as described in the HPMS field manual). • Transverse cracking in CRCP is not included in the cracking computation.
Rutting for Asphalt Pavements.	• Either the 5-Point Collection of Rutting Data method in accordance with AASHTO Standard R48–10 (2003) or the Automated Transverse Profile Data method in accordance with AASHTO Standard PP69–14 and AASHTO Standard PP70–14.
Faulting for Jointed PCCP ...	• Measured pavement profiles using AASHTO Standard R36–13.

In § 490.309(c), FHWA proposes the data collection requirements to identify the three data elements that State DOTs would be required to use to calculate the performance measures. These are essentially highway inventory items that are already reported by State DOTs to the HPMS. These data elements define the type of pavement, and whether or not there is a bridge at that location. Consistent with all of the pavement conditions and measures on the NHS, FHWA proposes that these elements be measured and not estimated from samples. This proposed approach would help achieve standardized data collection at a national level.

Discussion of § 490.311 Calculation of Pavement Metrics

In § 490.311, FHWA proposes the method to calculate and report the four pavement metrics and three inventory data elements discussed in § 490.309(a) from the data collected. The FHWA is proposing specific methodologies for calculating the metric, where appropriate, and incorporates the HPMS Field Manual by reference for any areas not specifically covered. The metric and inventory data element reporting requirements specified in this section would be more stringent than current HPMS requirements in the following areas:

1. The States DOTs would be required to report the four metrics and three inventory data elements in segments of 0.1 mile.

2. The States DOTs would be required to report the four metrics and three inventory data elements biennially for the non-Interstate NHS after the transition period ending December 31, 2019.

3. The State DOTs would be required to report the four metrics and three inventory data elements to the HPMS by April 15 each year for Interstate System pavements.

The FHWA is proposing in § 490.311(b) that State DOTs calculate the IRI metric from profile data in accordance with AASHTO Standard R43–13. The metric would be reported for all pavements as the average value in inches per mile, rounded to the nearest whole number, for each section. This method has been widely adopted by State DOTs for determining the IRI metric.[72] In addition, FHWA would not permit IRI to be estimated from a PSR or other observation-based methods.

Because of differences in the engineering properties, the Cracking_Percent, rutting, and faulting metrics are calculated differently for each type of pavement. The FHWA proposes in § 490.311(b)(2) that for asphalt sections, the Cracking_Percent metric would be computed as the percentage of the total area, to the nearest whole percent, that are exhibiting cracking, and the rutting metric would be computed as the average depth of rutting, to the nearest 0.05 inch, for the section. The FHWA proposes in § 490.311(b)(3) that for CRCP, the Cracking_Percent metric would be computed as the percentage of the area, to the nearest whole percent, of the full section exhibiting longitudinal cracking, punchouts, spalling, or other visible defects. In addition, FHWA proposes in § 490.311(b)(3) that transverse cracking not be considered in the computation for the Cracking_Percent metrics for CRCP because transverse cracking is not considered a pavement failure indicator for CRCP. The FHWA proposes in § 490.311(b)(4) that for jointed concrete pavement, the Cracking_Percent metric would be computed as the percentage of slabs, to the nearest whole percent, within the section that exhibit cracking. The FHWA proposes that partial slabs should contribute to the section that contains the majority of the slab length. In addition, FHWA proposes that the faulting metric would be computed as the average height, to the nearest 0.05 inch, of faulting between pavement slabs for the section.

The type and extent of cracking used for the Cracking_Percent metric varies by pavement type. For asphalt pavement the Cracking_Percent metric considers all cracking present in the section area, for jointed concrete pavements the Cracking_Percent metric considers any crack present in a slab within the section, and for CRCP the Cracking_Percent metric considers only longitudinal cracking in the section area (plus the additional non-cracking related items discussed in § 490.311(b)(3)). The metric calculations of Cracking_Percent for different pavements are proposed to align with existing HPMS practices and avoid the need for major changes in measurement and calculation practices by State DOTs.

In § 490.311(c)(1), FHWA proposes all pavement metrics and data inventory elements be reported in uniform 0.1-mile sections. Shorter sections may be used at the beginning of a route, end of a route, or at locations where a section length of 0.1 mile is not achievable. The FHWA feels that a consistent reporting interval reduces discrepancies in calculating the percentages of system sections classified in Good, Fair, or Poor Condition that are associated with varied section lengths. In Figure 8, a ½-mile road measured at both the 0.1-mile interval and at 0.5-mile section shows the following hypothetical results.

[72] FHWA 2013, Practical Guide for Quality Management of Pavement Condition Data Collection. *http://www.fhwa.dot.gov/pavement/management/qm/data_qm_guide.pdf.*

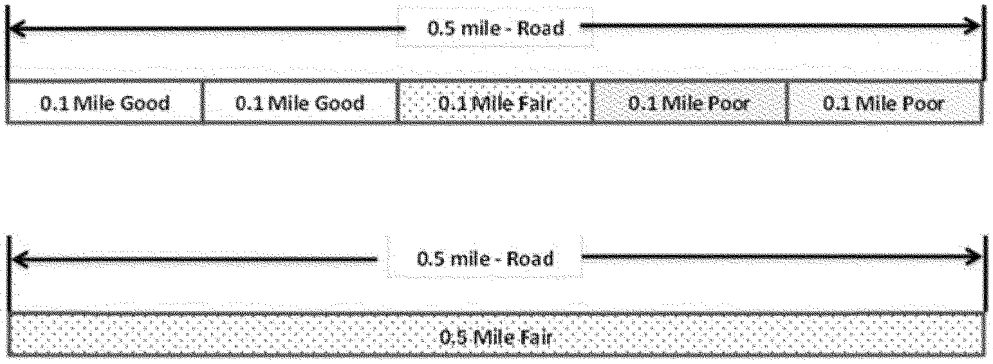


Figure 8 - A ½-mile road is measured at (a) 0.1-mile section and (b) the same road is measured at 0.5-mile section

For the 0.1-mile sections shown in Figure 8(a), 40 percent of the road is classified Good, 20 percent of the road is classified Fair, and 40 percent of the road is classified Poor when pavement conditions are measured. However, when the same road pavement conditions are measured at a 0.5-mile interval as shown in Figure 8(b), the entire roadway (100 percent) may be summarized (*i.e.,* averaged) to be Fair, which presents a very different account of pavement condition for this length of roadway as compared to an approach that uses a shorter section length to report condition. This 0.1 mile uniform section length, which is proposed to be used for the Interstate System and non-Interstate NHS, is supported by a recommendation provided by stakeholders.[73] The FHWA requests comments on whether a 0.1 mile uniform section length is appropriate for both the Interstate System and non-Interstate NHS.

The FHWA proposes in § 490.311(c)(2) that State DOTs provide a single value for each of the four metrics and three data elements for each 1/10 mile segment reported to the HPMS per year. The FHWA feels that using uniform section lengths to report to the HPMS will improve consistency. Considering this, FHWA proposes that State DOTs would not be allowed to break a 1/10 mile section into multiple shorter sections unless the 1/10 section is truncated at the termini of a roadway. A State DOT would also not be allowed to submit multiple entries for the four metrics and three data elements for the same 1/10 mile section length. This redundant reporting would be considered invalid data and would be subject to the requirement specified in § 490.313.

Section 490.311(c)(3) proposes that State DOTs would report for each section containing any of the four metrics or three inventory data elements a time and location reference. The HPMS includes a standard location referencing framework that would be required under this proposal, which includes the State_Code, Route_ID, Begin_Point, and End_Point. The date for which the data represents for each section would be reported as year in the HPMS Year_Record field for each of sections containing any of the four metrics or three inventory data elements. In addition, the Value_Date field would be reported as the month and year of data collection for each of the sections containing any of the four metrics. This data information is needed to associate the reported condition metric to the performance year.

Section 490.311(c)(4) provides that State DOTs report the four metrics and three inventory data elements for the Interstate System to the HPMS no later than April 15 of each calendar year. The information reported to the HPMS would be calculated from data collected from roadway sections in the prior calendar year. For example, the data collected from January 1, 2016, through December 31, 2016, would be used to calculate the four metrics and three inventory data elements that would be reported to the HPMS no later than April 15, 2017. Additionally, FHWA is proposing in § 490.311(c)(5) that State DOTs report the four metrics and three inventory data elements for the non-Interstate NHS to the HPMS no later than June 15 of each calendar year, the current due date to report to the HPMS.

Discussion of § 490.313 Calculation of Performance Management Measures

In § 490.313, FHWA proposes the method for calculating the pavement measures using the pavement metrics and data elements. In § 490.313(a), FHWA proposes how the pavement measures would be used by FHWA, State DOTs, and MPOs.

In § 490.313(b), FHWA proposes the method to calculate condition ratings that would use a Good, Fair, and Poor rating approach for each of the four pavement metrics discussed in § 490.311. This approach would use thresholds that would be applied to each of the four pavement metrics to determine the condition rating of Good, Fair, or Poor. The proposed thresholds are based on documented research. As an example, the proposed pavement rutting thresholds have been correlated to threshold levels that minimize the risk of vehicle hydroplaning.[74]

The FHWA proposes in § 490.313(b), the criteria to determine Good, Fair and Poor pavement condition ratings using each metric. These proposed criteria are based on the levels used by FHWA to report ride quality conditions for the IRI metric and the default design criteria thresholds established for the Mechanistic Empirical Pavement Design Guide.[75] The proposed criteria to

[73] AASHTO (2013). SCOPM Task Force Findings on MAP–21 Performance Measure Target-Setting. AASHTO Standing Committee on Performance Management. *http://scopm.transportation.org/Documents/SCOPM%20Task%20Force%20Findings%20on%20Performance%20Measure%20Target-Setting%20FINAL%20v2%20(3-25-2013).pdf.*

[74] ''Potential Safety Cost-Effectiveness of Treating Rutted Pavements'' by Start, M R,Kim, J,Berg, W D; Transportation Research Record, Issue Number: 1629, Publisher: Transportation Research Board,ISSN: 0361–1981.

[75] *The Mechanistic-Empirical Design Guide for New and Rehabilitated Pavement Structures'',* NCHRP 1–37A, 2004, *http://onlinepubs.trb.org/*

Continued

determine Good, Fair, and Poor ratings are summarized in Table 5. The FHWA encourages comments on the appropriateness of these proposed criteria and any alternative levels that would be appropriate for network level condition assessment.

TABLE 5—PROPOSED PAVEMENT CONDITION RATING THRESHOLDS

Surface type	Metric	Metric range	Rating
All pavements	IRI	<95	Good.
		95–170: Areas with a population less than 1,000,000.	Fair.
		95–220: Urbanized areas with a population of at least 1,000,000.	
		>170: Areas with a population less than 1,000,000.	Poor.
		>220: Urbanized areas with a population of at least 1,000,000.	
Asphalt Pavement and Jointed Concrete Pavement.	Cracking_Percent	<5%	Good.
		5–10%	Fair.
		>10%	Poor.
Asphalt Pavement	Rutting	<0.20	Good.
		0.20–0.40	Fair.
		>0.40	Poor.
Jointed Concrete Pavement	Faulting	<0.05	Good.
		0.05–0.15	Fair.
		>0.15	Poor.
CRCP	Cracking_Percent	<5%	Good.
		5–10%	Fair.
		>10%	Poor.

Overall pavement condition is derived from the policies that State DOTs use for initiating construction activities for maintenance and/or safety repairs. State DOTs advise that IRI conditions are more difficult to preserve in urbanized areas than in non-urbanized areas. In consideration of this and because speeds are typically slower in urbanized areas, FHWA is proposing different thresholds for Fair and Poor IRI for large urbanized areas. In particular, FHWA proposes that the criteria to classify Poor condition be increased to an IRI of 220 in urbanized areas with a population over 1 million. The proposed IRI threshold of 170 is commonly used by State DOTs in non-urbanized areas. The proposed IRI threshold of 220 for urbanized areas with a population over 1 million is based on the upper end of IRI value distributions derived from the data submitted by State DOTs.[76]

Traffic levels were not included in the computation of pavement conditions except as implied by location as either urbanized or non-urbanized areas. Although traffic is an important consideration for the design of pavements, it is not considered a measure of the existing pavement condition. For this reason, the proposed rating system described in paragraphs (b) through (e) was designed without weightings or other prioritization related to anything other than the physical characteristics of the pavement structure. The FHWA is seeking stakeholders' comment on the IRI threshold values. Because of safety and pavement structural implications, Cracking_Percent, rutting, and faulting are the same for all population areas.

The FHWA proposes that condition ratings would be determined for each section of mainline highway.

The FHWA proposes in § 490.313(b)(4) how missing or invalid data would be addressed. The FHWA would determine, on the dates specified in 490.109(d)(1) and 490.109(d)(2), for the Interstate System and non-Interstate NHS, respectively, any mainline mileage that is incomplete due to any of the following scenarios:

- Sections are missing, resulting in gaps in the mileage to be reported; or
- sections are reported that do not contain all the data required in § 490.311(c) or contain invalid data.

The FHWA is proposing to address incomplete mainline mileage by:

- Rating the mainline mileage as being in Poor condition for the corresponding metric where the mileage is considered incomplete due to missing or invalid sections for any of the four metrics; or
- rating the mainline mileage as being in overall Poor condition where the mileage is considered incomplete due to missing or invalid sections for any of the three inventory data elements.

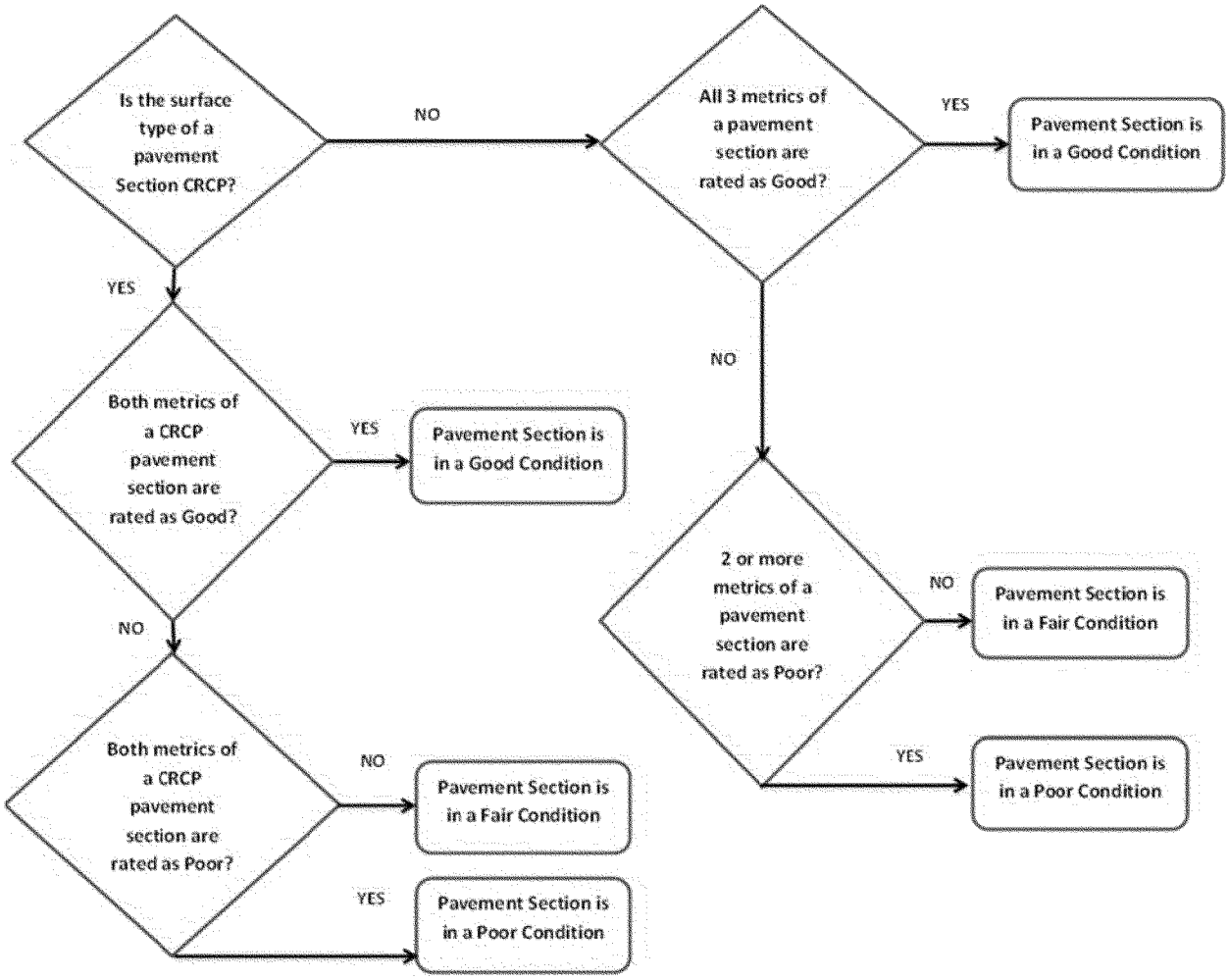
The FHWA believes that completeness of data is essential to reliable and defensible reporting of pavement condition. The HPMS data needed to calculate the proposed pavement condition measure is, in some cases, incomplete. In 2012, 12 State DOTs were missing data from samples that represented at least 50 percent of their Interstate System and 3 State DOTs were not able to provide any samples with complete data for their portion of the Interstate System. In aggregate, 27 percent of the full Interstate System lane mileage was represented by samples with missing HPMS data in 2012. Approximately 11 percent of the Interstate System would be rated in Poor condition if the proposed approach to addressing missing data was applied to the 2012 HPMS data. In contrast, only approximately 2 percent of the Interstate System would be rated in Poor condition if the missing 27 percent of data were excluded from the estimated calculation. This does not account for invalid data. The FHWA believes that it is critically important to use the entire network system (Interstate System and non-Interstate NHS) when assessing pavement conditions. The FHWA encourages comments on alternative methods for addressing missing or invalid data that would provide for an

onlinepubs/archive/mepdg/part_12_cover_ack_toc.pdf.

[76] FHWA, Table HM–47 in 2011 Highway Statistic. *http://www.fhwa.dot.gov/policyinformation/statistics/2011/hm47.cfm.*

accurate assessment of network level conditions.

The FHWA proposes in § 490.313(c) and (d) that an Overall Condition Rating be determined based on the individual condition ratings for the metrics as illustrated in Figure 9.



Legend: CRCP=Continuously Reinforced Concrete Pavement

Figure 9 -Flow Chart of Proposed Overall Pavement Condition Measure for Each Section

For an asphalt or jointed concrete pavement section to be classified in overall Good condition, all three criteria would have to be met. If a pavement section has two or more Poor criteria, it would be classified as Poor. For example, a section exceeding the criteria for IRI but not meeting the criteria for Cracking_Percent and the criteria for rutting would be classified in overall Poor condition because the rutting is a safety hazard and the cracking indicates that the section is structurally failing. Because of the distinct engineering properties of CRCP, there are only two criteria for determining the overall pavement condition, IRI and Cracking_Percent. For a CRCP section, both the IRI and Cracking_Percent criteria would need to be rated Good in order for a section to be classified in overall Good condition. Conversely, for a CRCP section, a condition rating of Poor means that both the IRI and Cracking_Percent criteria are rated as Poor.

As outlined above, the FHWA is proposing an approach to determining pavement condition that requires at least 2 metrics to be exhibiting a Poor level of condition in order for the overall condition of a pavement section to be considered Poor. This approach recognizes the predominant condition represented by the metrics as the driver of the overall pavement condition. An alternative approach could consider the lowest rated metric as the indicator driving the overall condition of the pavement section, essentially only requiring 1 metric to be in Poor condition in order for the pavement section to be rated Poor overall. The FHWA elected to use a predominant approach as this concept is typical of the approach used by many State DOTs today to evaluate pavement condition. In addition, FHWA wanted to propose a condition assessment method that minimizes the potential for any single metric, such as ride quality, to dominate the condition. Further, FHWA believes that a predominant approach more accurately recognizes that pavement

condition is impacted by multiple failure criteria. For example, a pavement that is exhibiting both Poor cracking and Poor rutting is more indicative of a structural problem as compared to a pavement that is only exhibiting Poor cracking.

In § 490.313(e), FHWA proposes that the Overall condition for all pavement types on the non-Interstate NHS be solely based on IRI, until the collection cycle ending December 31, 2019.

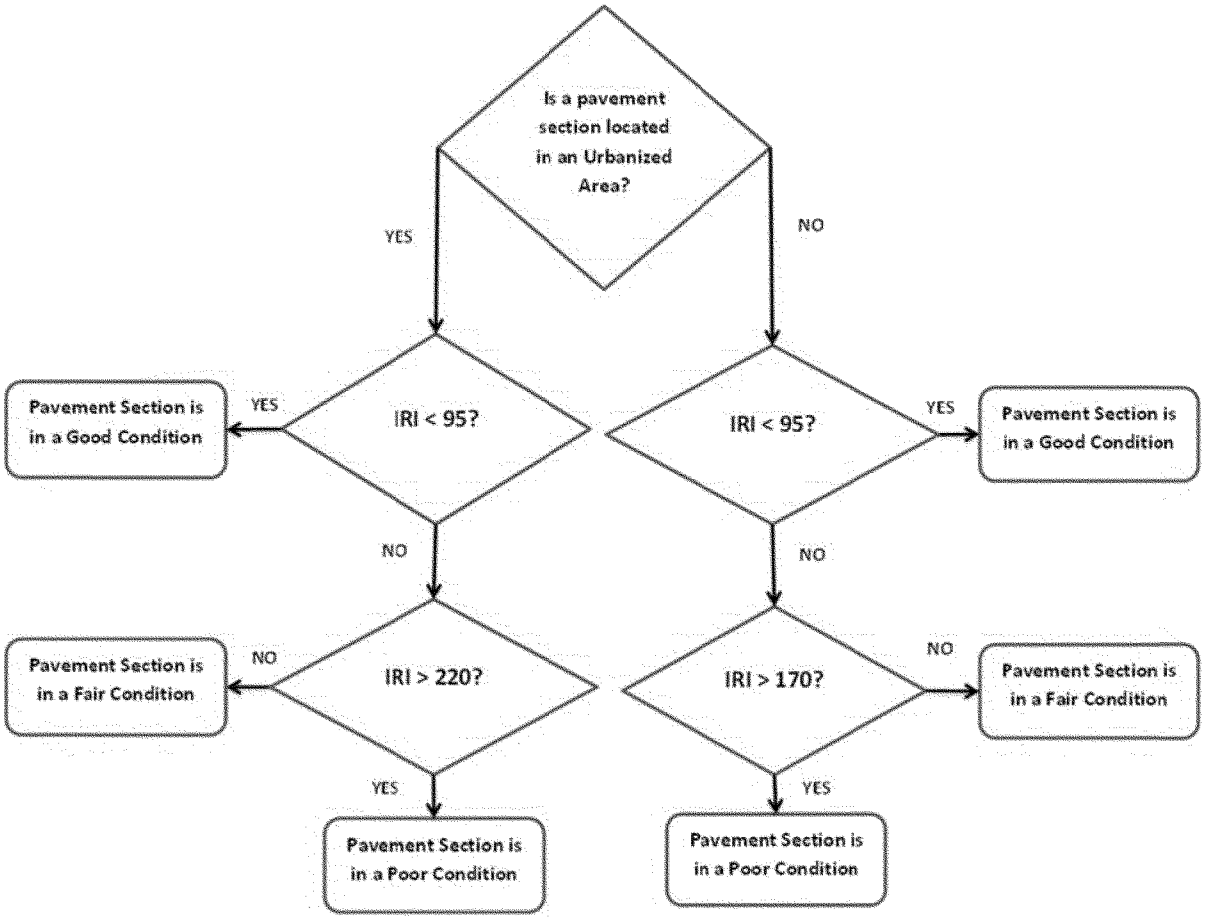


Figure 10 –Flow Chart of Proposed Overall Pavement Condition Measure for Each Section for non-Interstate NHS for Data Collection Cycle Ending December 31, 2019

For the purpose of establishing targets and reporting of condition, FHWA proposes in § 490.313(f) that State DOTs and MPOs report system-level condition measure computed to the one tenth of a percent as Good and Poor percentages of lane-miles of Interstate System and non-Interstate NHS. The Percentages of lane-miles in Good (or Poor) condition is calculated from the total of the lengths of the sections in Good (or Poor) condition, the number of mainline lanes in each section, and the total length of all sections. Bridges would be excluded by excluding any samples that have a Structure Type of 1 prior to computing all pavement condition measures. State DOTs and MPOs would do separate calculations for the Interstate System and non-Interstate NHS measures. These measures would be used for establishing targets and reporting the condition of pavements in the biennial performance report.

Discussion of § 490.315 Establishment of Minimum Level for Condition of Pavements on the Interstate System

Selection of Minimum Condition Levels for the Interstate System

The FHWA is required to establish minimum levels for the condition of pavement on the Interstate System for carrying out 23 U.S.C. 119(f)(1). (23 U.S.C. 150(c)(3)(A)(iii)) The Interstate System, which includes approximately 48,000 miles of access-controlled highways, is considered one of the most important infrastructure assets in the world.[77] The FHWA proposes a minimum condition level that would minimize impacts to this System: State DOTs maintain no more than 5.0 percent of their pavements on the Interstate System in Poor condition.[78] In selecting this level, the FHWA evaluated the costs and impacts to State DOTs and highway users as well as the estimated ability for State DOTs to comply.

Poor, as defined in this proposal, represents a level of condition that

[77] FHWA Highway Statistics 2011, Table VM–1, *http://www.fhwa.dot.gov/policyinformation/statistics/2011/vm1.cfm*

[78] The FHWA did consider the establishment of different minimum condition thresholds for different geographic regions and felt that separate thresholds for these areas were not necessary.

would adversely impact system performance and the ability to effectively manage network level conditions to meet user needs. There are several costs and other impacts associated with the existence of Poor condition pavements, including increased repair costs, increased VOCs, costs associated with work zones, and impacts to the environment, local communities and businesses. Considering these impacts, FHWA would like to minimize the existence of Poor condition pavements on the Interstate System but also allow States flexibility to manage their pavements system-wide. The FHWA believes that it is impractical to set an expectation to remove all Poor condition pavements from the Interstate System as it could result in ineffective pavement management practices by forcing State DOTs to chase small percentages of Poor pavements at the risk of ignoring efforts to preserve pavements in Good and Fair conditions. Understanding this challenge, FHWA believes that a minimum condition level of 5.0 percent (approximately 2,400 miles nationally) would minimize the costs impacts associated with Poor condition pavements on the Interstate System, and would allow State DOTs to effectively manage the overall performance of the pavement network through the delivery of a mix of treatments to address all pavement condition levels. This would optimize investment returns.

The FHWA also considered current target establishment practices used by State DOTs and actual pavement conditions existing on the Interstate System. The FHWA reviewed a sample of pavement condition target values in use by a number of State DOTs [79] in their planning processes and targets documented in recent research studies.[80] The FHWA found only a limited number of cases where a State DOT has established a target specifically addressing pavements on its portion of the Interstate System at Poor condition levels. In the majority of these cases the target was established at or below 5.0 percent. The FHWA's proposal is consistent with policies set by State DOTs that have established targets associated with the level of Poor pavements on the Interstate System.

The FHWA also evaluated pavement conditions State DOTs submitted to the HPMS for the Interstate System in 2012. Although the HPMS data submitted in 2012 was not complete and was not reported following the same data collection and process standards included in this proposal, FHWA believes that it provides a general understanding of the extent to which the proposed threshold could be met when implemented. Based on the 2012 submitted data, FHWA estimates that approximately 1.7 percent of the Interstate System was in Poor condition and that approximately 87 percent of State DOTs would meet a 5.0 percent threshold on allowable Poor pavements.[81] It is difficult to accurately assess the impacts of the proposed 5.0 percent minimum condition level on State DOT investment programming for Interstate System pavements because the full baseline of conditions using the proposed pavement measures does not exist today for every State. The estimates discussed above were based on a sample of the full data from States that had provided a full baseline condition data. For this reason, FHWA is committed to reassessing the minimum Interstate System pavement condition level in the future after a sufficient level of data is reported to establish a baseline and trends of pavement conditions on the entire Interstate System. The FHWA expects to reassess the minimum Interstate pavement condition level after the completion of the first full performance period to determine if additional system improvements can be achieved through adjustments to the required minimum condition level. The FHWA will conduct a rulemaking with an opportunity for public comment if it is determined through the assessment that the minimum level should be adjusted.

The FHWA further evaluated the 2012 HPMS data to examine the possibility of geographical differences in percent lane-miles of the Interstate System in Poor pavement condition as described in 23 U.S.C. 150(c)(3)(B). The FHWA evaluated lane-mile distribution of the Interstate System pavement conditions among different traffic volumes, climatic conditions, and terrain types. Consequently, the data suggested that there is no evidence to conclude that there are significant differences in percent lane-miles of the Interstate System in Poor pavement condition among the Interstate System pavement sections in these various areas. However, FHWA seeks comments on the need to establish different thresholds for geographic regions.

A white paper included in the docket includes additional information on FHWA's rationale for the proposed minimum condition threshold. Recognizing the limitations associated with an analytical approach to developing the threshold, FHWA is seeking comment on:

- The proposed minimum level, including suggestions for alternative approaches to implementing the minimum condition requirements of 23 U.S.C. 119(f)(1);
- potential impacts resulting from the existence of Poor condition Interstate System pavements;
- the appropriate threshold level to establish a minimum condition for the Interstate pavement system nationally and within each State;
- the need to establish different thresholds for different geographic regions;
- the need to reassess and potentially adjust, through rulemaking, the minimum condition threshold after the completion of the first full performance period;
- whether FHWA should, in the final rule, establish a minimum condition threshold that would become more stringent over time, to replace in the future the proposed initial 5 percent level, in order to reflect the improvements made to the system over time; and
- the lowest minimum condition level that could be maintained for Interstate System pavements in the future.

Discussion of § 490.317 Penalties for Not Maintaining Condition

Pursuant to 23 U.S.C. 119(f), § 490.317 describes the method FHWA will use to assess if a State DOT has maintained the minimum condition level for pavements on the Interstate System. The FHWA is proposing to make this determination after the first full year of data collection and each year thereafter. Considering that this rule is scheduled to be effective in 2015, the first determination would be made in 2017 (after a full year of data collection in 2016) and then annually thereafter. The FHWA intends to make this determination in a manner that can be replicated by State DOTs and others interested in assessing State DOT compliance with § 490.315(a) by

[79] Washington State DOT Gray Notebook *http://www.wsdot.wa.gov/Accountability/GrayNotebook/SI_pavement.htm* Kansas DOT. KDOT Long Range Transportation Plan, Section 2.2 *http://www.ksdot.org/Assets/wwwksdotorg/LRTP2008/pdf/KS_LRTPFinal.Chapter_2.pdf* Texas DOT. TxDOT Statewide Long Range Transportation Plan—2035 Final Report, Section 2.6 *http://ftp.dot.state.tx.us/pub/txdot-info/tpp/rural_2035/report/slrtp_final_ch2.pdf*

[80] Pavement Score Synthesis, TXDOT Study, January, 2009, NCHRP Report 522, and NCHRP Report 551

[81] Estimate based on HPMS data provided by 31 State DOTs and excludes Interstate System mileage within these States that is represented by samples with missing data. These State DOTs were able to submit complete data (needed to calculate the proposed pavement condition measure) for samples that represented at least 80 percent of their Interstate System lane-miles.

extracting the data needed from the HPMS to make the determination on a specific date each year. The FHWA is proposing to extract data from the HPMS on June 15th of each year to provide sufficient time for State DOTs to report pavement conditions for the prior year to the HPMS. This timetable would also enable any requirements to obligate or transfer funds to be in place by the next fiscal year.

If FHWA determines that the condition of the Interstate System meets the requirement specified in § 490.317(d), then no further action is required by the State DOT for the next fiscal year. If FHWA determines that a State DOT is out of compliance with 23 U.S.C. 119(f)(1), then the State DOT would be subject to the requirements specified in 23 U.S.C. 119(f)(1)(A)(i) and (ii).

The FHWA proposes in § 490.317(e) to notify all State DOTs annually of their compliance status with the minimum condition requirements prior to October 1 of the year the determination would be made.

Section 490.317(f) outlines the actions that would occur if FHWA determines that a State DOT is out of compliance with 23 U.S.C. 119(f)(1). This proposed section incorporates the requirements found in 23 U.S.C. 119(f). Under this proposal, States determined to be out of compliance would be required to: (1) Obligate certain NHPP funds for the purposes described in 23 U.S.C. 119 (as in effect on the day before enactment of MAP–21) and increased by an amount each year after Fiscal Year (FY) 2013, and (2) transfer certain apportioned Surface Transportation Program for the purposes described in 23 U.S.C. 119 (as in effect on the day before enactment of MAP–21). The day before enactment of MAP–21, 23 U.S.C. 119 contained the requirements for the Interstate Maintenance Program. Pursuant to 23 U.S.C. 119(f)(1)(B), the requirement specified in 23 U.S.C. 119(f)(1)(A) remains in effect until the Interstate System pavement condition exceeds the minimum condition level established by this NPRM. The FHWA is proposing to implement this restoration requirement by making annual determinations of compliance. The FHWA is proposing in § 490.317(d) that it would make the determination based on the data submitted to the HPMS each year by assessing compliance with § 490.315(a) for the most recent 2 years. A proposed application of this NHPP minimum condition penalty is provided in the docket.

The following example (illustrated in Table 6) indicates how this provision would be carried out. Assuming that this rule is effective in 2015, a State DOT submits data collected on the Interstate System in calendar year 2016 to the HPMS by April 15, 2017, and data collected on the Interstate System in calendar year 2017 to the HPMS by April 15, 2018. The FHWA would review the submitted data for completeness and would work with the State DOT to address any missing data. The FHWA would extract data from the HPMS on June 15, 2017, to determine State DOT compliance with § 490.315(a) in 2016 and would notify the State DOT before October 1 of the determination. Similarly in 2018, FHWA would extract data from the HPMS, check compliance with the minimum level for condition of pavements, and notify the State DOT following the same schedule as described for 2017. If FHWA determined in both 2017 and 2018 that the State DOT did not comply with § 490.315(a), then beginning October 1, 2018, the State DOT would need to: (1) Obligate, from the amount apportioned to the State for the NHPP, an amount that is not less than the Interstate Maintenance apportionment for the FY 2009, plus 2 percent per year compounded annually (for the 5 additional FYs after 2013); and (2) transfer certain apportioned Surface Transportation Program funds equal to 10 percent of Interstate Maintenance apportionment for the FY 2009. These funds would need to be used to improve Interstate pavement conditions (as provided under the pre-MAP–21 Interstate Maintenance Program). In 2019 and each year thereafter, FHWA would assess the State DOT's compliance with § 490.315(a). The State DOT would be subject to the obligation requirements specified in 23 U.S.C. 119(f)(1)(A)(i) and (ii) if in any year it is determined that the State DOT was out of compliance with § 490.315(a) for the most recent 2 years.

TABLE 6—DETERMINATION OF COMPLIANCE BASED ON HPMS REPORTING

Data collection year	HPMS reporting date	Data to be used for compliance determination	Date of determination and notification	Obligation requirement effective date (if not meeting minimum level requirement)	Obligation requirement
CY 2016	April 15, 2017	Data extracted from HPMS on June 15, 2017, for calendar year 2015 and 2016 Interstate System pavement conditions.	Prior to October 1, 2017.		
CY 2017	April 15, 2018	Data extracted from HPMS on June 15, 2018, for calendar year 2017 and data that was extracted on June 15, 2017, for calendar year 2016.	Prior to October 1, 2018.	October 1, 2018	At least $[(FY09IM^{*}) \times (1.02)^{2019-2013}]^{**} + [0.10 \times (FY09IM^{*})]^{***}$
CY 2018 and each year thereafter noted as "CY 20##" the columns to the right.	April 15, 20XX+1	Data extracted from HPMS on June 15, 20XX+1 for calendar year 20XX, and data that was extracted on June 15, 20XX for calendar year 20XX–1.	Prior to October 1, 20XX+1.	October 1, 20XX+1.	At least $[(FY09IM^{*}) \times (1.02)^{(20XX+1)-2013}]^{**} + [0.10 \times (FY09IM^{*})]^{***}$

* FY 09IM denotes the amount of funds apportioned to a State for FY 2009 under the Interstate Maintenance program.
** Amount of NHPP to be obligated to addressing Interstate System pavement conditions.
*** Amount of STP to be transferred to the NHPP to address Interstate System pavement conditions.

Discussion of § 490.319 Other Requirements

To implement the Interstate System pavement minimum condition level requirement and the issuance of any penalties, required under 23 U.S.C. 119(f)(1), FHWA proposes in § 490.319(a) that each State DOT reports the required pavement condition metrics and data elements outlined in §§ 490.311 and 490.309(b)(4), respectively, to the HPMS no later than April 15 of each year. The FHWA recognizes that State DOTs need sufficient time after data collection to process data, conduct data quality management activities, analyze data, and carry out other required business processes that are necessary to prepare data for upload into HPMS. Based on previous data management experience, FHWA anticipates that additional time would be needed after the State DOT reports to the HPMS to conduct checks to assure data quality and completeness. Additionally, sufficient time is needed for FHWA's compliance determination for minimum condition level, for State DOT notification, and for FHWA to issue any resulting penalties so that they are effective by the beginning of the next fiscal year as required under 23 U.S.C. 119(f)(1).

Thus, FHWA proposes that the State DOTs report to the HPMS the proposed Interstate System pavement condition metrics and data elements no later than April 15 of each year. This would allow for sufficient time to carry out the necessary steps to make a timely and accurate minimum condition determination. The FHWA recognizes that the proposed schedule to report Interstate System data would accelerate the time needed to report to the HPMS, which may impact a State DOT's ability to effectively process data and ensure data quality. Understanding this potential impact, FHWA is seeking comment from State DOTs on the proposed schedule to implement the 23 U.S.C. 119(f)(1) minimum condition requirements.

Provided that this proposed rule becomes effective in 2015, the determination of compliance with the minimum condition requirements specified in 23 U.S.C. 119(f)(1) would be carried out by FHWA for the first time in 2018, based on information in the previous 2 years. The 2017 assessment will review 2016 minimum condition compliance and the 2018 assessment will review 2017 minimum condition compliance. Following this implementation schedule, any transfer and obligation requirements under 23 U.S.C. 119(f)(1) resulting from the minimum condition compliance determination would not be in effect until FY 2019, or by October 1, 2018. Thus, the proposed requirement to submit Interstate System data by April 15 would not be in effect until 2017. This would allow time for State DOTs to prepare for this proposed accelerated data reporting requirement.

In § 490.319(b), FHWA proposes to retain the requirement currently in the HPMS Field Manual that data for the non-Interstate NHS pavement condition be reported to HPMS not later than June 15 of each year.

In § 490.319(c), FHWA proposes Data Quality Management program requirements to implement 23 U.S.C. 150(c)(3)(A)(iv) for pavement condition data. Data quality management programs are a standard practice in both private industry and the public sector wherever large quantities of materials, products, or data are exchanged. For purposes of assessing pavement conditions, there are considerable data requirements and significant consequences attached to the outcomes of the analyses. The FHWA proposes that each State DOT must have a data quality management program for the data required to assess pavement conditions. This proposal would require State DOTs to submit their Data Quality Management Programs to FHWA for approval. Once approved, State DOTs would use that program to collect and report data. State DOTs would also be required to have FHWA approve significant changes prior to implementation. A significant change would occur when a State DOT changes fundamental processes, procedures, or acceptance criteria. Examples of significant change include moving from in-house data collection to contract collection, changing from manual to automated data collection, contracting with an independent assurance firm, and similar actions. The design of the data quality management program is left to discretion of State DOTs, as long as it includes the following items:

- Data Collection equipment, calibration, and certification;
- Certification process for persons performing manual data collection, if used;
- Data quality control measures conducted both before data collection begins and periodically during the data collection program;
- Data sampling, review, and checking processes; and
- Error resolution procedures and data acceptance criteria.

C. Section-by-Section Discussion for Subpart D: National Performance Management Measures for Assessing Bridge Condition

Discussion of § 490.401 Purpose

In § 490.401, FHWA proposes to specify that bridge condition performance measures are applicable to all NHS bridges covered under the NHPP. In addition, this section emphasizes that the data used for the performance measures would need to include all bridges on the NHS in the State regardless of ownership, maintenance responsibility, or functional classification.

Discussion of § 490.403 Applicability

In § 490.403, FHWA proposes to specify that the bridge performance measures are applicable to all NHS bridges including bridges on ramps connecting to the NHS as defined by 23 U.S.C. 103 and NHS bridges that cross a State border regardless of ownership or maintenance responsibility. The FHWA also proposes that State DOTs coordinate with all relevant bridge owners, such as Federal agencies that own NHS bridges and other State DOTs that share NHS bridges that cross State borders, in order to meet the proposed requirements of subpart A. The FHWA recognizes that this differs from certain established requirements of the NBIS, such as the NBI data submittal process under which States are not responsible for Federal- or tribal-owned bridges. Similar to the proposed requirement in subpart A that requires coordination between State DOTs and MPOs, it is appropriate that State DOTs coordinate with all relevant NHS bridge owners for the proposed bridge condition performance measures and targets in order to ensure consistency.

Discussion of § 490.405 Definitions

In § 490.405, FHWA proposes to use the definition of ''bridge'' found in the NBIS (23 CFR 650.305) for this subpart. The FHWA recognizes that States may have differing definitions for ''bridge.'' These discrepancies would cause problems in analyzing collected bridge data at the national level, and measuring progress toward the national goal of ''maintaining the highway infrastructure asset system in a state of good repair.'' The use of an established definition would continue to provide FHWA consistent and standardized data to be analyzed for the evaluation of State and national progress in achieving a state of good repair.

The FHWA also proposes to include a definition for ''Structurally Deficient'' to identify the population of NHS bridges for determining a State's percentage of deck area of bridges classified as ''Structurally Deficient'' and implement the penalty for any State DOT that does not maintain the minimum condition level established by 23 U.S.C. 119(f)(2). ''Structurally Deficient'' is a programmatic term that was used to administer the Highway Bridge Program. This Program was known as the Highway Bridge Replacement and Rehabilitation Program and was eliminated by MAP–21. It was one of three statuses assigned to a highway bridge based on an evaluation of NBI data for the purposes of determining Highway Bridge Program eligibility. The proposed definition would be the same programmatic definition of ''Structurally Deficient'' that was used under the Highway Bridge Program. It would provide a continued focus of improving a specific population of bridges through the penalty and minimum condition level provisions established by 23 U.S.C. 119(f)(2).

Discussion of § 490.407 National Performance Management Measures for Assessing Bridge Condition

In § 490.407, FHWA proposes the two performance measures to carry out the NHPP for State DOTs to use to assess bridge condition on the NHS. The proposed measures are: (1) Percentage of NHS bridges classified as in Good condition; and (2) Percentage NHS bridges classified as in Poor condition. These performance measures would be used to demonstrate how investments of Federal-aid funds are utilized toward achieving performance targets for all NHS bridges, including bridges on ramps connecting to the NHS. The NHS is defined in 23 U.S.C. 103.

Discussion of § 490.409 Calculation of National Performance Management Measures for Assessing Bridge Condition

In § 490.409(a), FHWA proposes the method that would be used to calculate the bridge measures proposed in § 490.407 and outlines how FHWA, State DOTs, and MPOs would use the bridge measures.

In § 490.409(b), FHWA proposes the source of data and the method to be used in assigning classification for the condition of bridges on the NHS, including bridges on ramps connecting to the NHS. The Good, Fair, and Poor classification of bridges on the NHS utilizes data elements from the NBI database. State DOTs measure and classify a number of standard features for bridges in their jurisdiction and then report them to FHWA on an annual basis. Based on their NBI data, State DOTs would be required to classify all bridges within a State into one of the three classifications: Good, Fair, or Poor. These classifications and their development are consistent with the conclusions and recommendations of a 2011 FHWA study on the use of performance management approaches titled, ''Improving FHWA's Ability to Assess Highway Infrastructure Health.'' [82] As noted in this study, there are two basic methods FHWA could use as a basis for developing a measure to assess bridge condition. The first is a weighted average method that consists of calculating a measure of structural adequacy based on a weighted average of the deck, superstructure, and sub-structure condition ratings of a bridge. The second is the minimum condition rating method which calculates a measure of structural adequacy based on the lowest condition rating of deck, superstructure, and sub-structure of a bridge.

This section also proposes that the condition classification of Good, Fair, or Poor, be based on a bridge's condition ratings for the following NBI Items: 58—Deck, 59—Superstructure, 60—Substructure, and 62—Culverts. Various methods for determining the bridge condition based on these NBI items have been studied by FHWA as well as suggested by States, including: Each item contributing equally to a final average; some items contributing more than others to achieve a weighted average; and the minimum rated item controlling (minimum condition rating method). In the case of culverts, there is only one item (Item 62—Culvert) to rate, since culverts do not have NBI Items 58, 59, and 60.

The data within FHWA's NBI database, which includes bridge condition and geometric information, is utilized to determine overall bridge condition. Data in the NBI database is provided to FHWA by State DOTs and Federal agencies as required by 23 CFR 650.315. State DOTs are required to submit NBI data annually in accordance with 23 U.S.C. 144(d)(1) and 23 U.S.C. 144(h)(2)(D)(ii).

Phases of the previously identified 2011 FHWA study, ''Improving FHWA's Ability to Assess Highway Infrastructure Health,'' evaluated five different methods (four different weighted average methods and one minimum condition rating method) to assign bridge condition based on Good, Fair, or Poor ratings. For this study, the NBI database was selected as the logical data source because of the consistency of its representation of over 40 years of collected data, and because it is used by nearly every State DOT as the current basis for their bridge decisionmaking. The study discussed and evaluated five different methods (four different weighted average methods and one minimum condition rating method). The study concluded that for the Interstate System—

- Percentages of bridges classified as Good, Fair, or Poor were consistent for all methods with little variation;
- minimum condition rating method resulted in the highest percentage of bridges in Poor condition;
- percentages of bridges classified as Good, Fair, or Poor based on the four weighted average methods are not sensitive to the weights; and
- bridge deck conditions alone are not typically the driving factor in the Good, Fair, or Poor calculations.

The FHWA further assessed the different methods and observed that the magnitude in differences between condition ratings for individual NBI items was somewhat nullified when a final average or weighted average method was employed. This observation was also noted in the 2011 study. The masking or obscuring of possible poor bridge conditions is a major concern with the final average or weighted average methods. Although these methods could be further refined, the development, subjectivity, and complexity of such methods makes them less desirable than the simple minimum condition rating method, especially since analyses indicate that a refined weighted method would result in the same general classification as the minimum condition rating method. Therefore, FHWA proposes that for each applicable bridge, the performance measures for determining condition be based on the minimum value for the following NBI Items: 58—Deck, 59—Superstructure, 60—Substructure, and 62—Culverts. The FHWA further proposes to weight this condition by the respective deck area of each bridge and express condition totals as a percentage of the total deck area of bridges in a State. The FHWA recognizes that this proposed approach to determining bridge condition is different from the approach to determining pavement condition, which is based on a cumulative assessment.

[82] ''Improving FHWA's Ability to Assess Highway Infrastructure Health,'' (*http://ntl.bts.gov/lib/46000/46100/46182/Improving_FHWA_s_ability_to_assess_highway_infrastructure_health_Pilot_Study_Rpt.pdf*

The following flow diagram, Figure 11, provides in visual format the classification ratings identified in § 490.409(b)(1) through (3). They are as follows: § 490.409(b)(1) assigns a Good classification when all of the NBI items are rated as 7 or above; § 490.409(a)(2) identifies Fair classification when any of the NBI items are rated as 5 or 6; and § 490.409(a)(3) assigns a Poor classification when any of the NBI items are 4 or less. These classification ratings are then used to determine the performance measures identified in § 490.407.

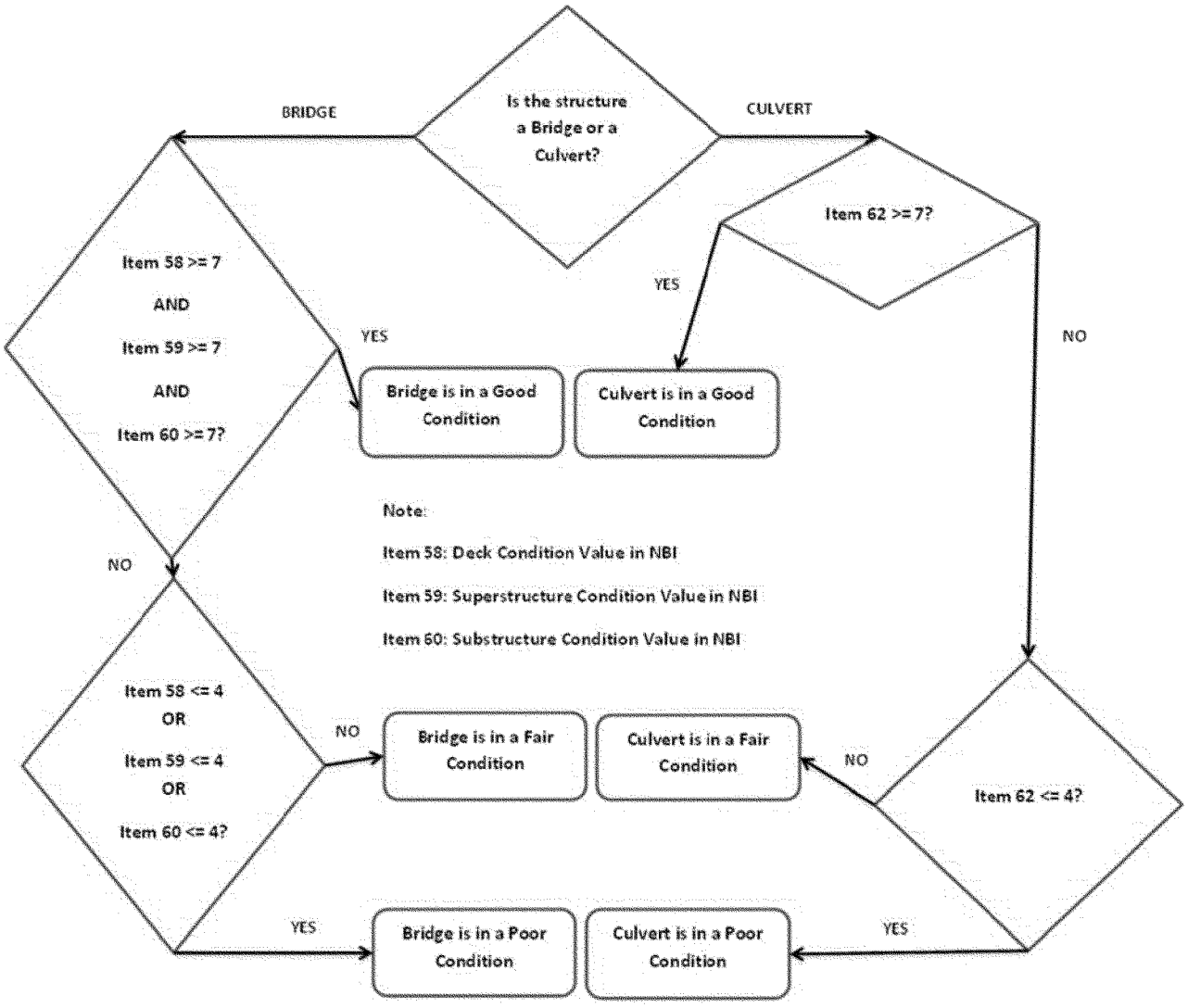


Figure 11– Flow Chart of NBI Classification Process

In § 490.409(c), FHWA proposes how to calculate the performance measures for assessing bridge condition identified in § 490.407. Using NBI data, the ratio of the total deck area of bridges in a condition classification to the total deck area of applicable bridges is calculated. The deck area of a bridge is proposed to be the product of NBI Items 49—Structure Length, and 52—Deck Width. In the case of a roadway on fill carried across a pipe(s) or culvert in which headwalls do not affect the flow of traffic, NBI Item 32—Approach Roadway Width is utilized instead of Item 52—Deck Width, to calculate the deck area. The FHWA proposes that this ratio would be calculated by first summing the total deck area for each of the three classification conditions (Good, Fair, and Poor) for all applicable bridges. Next, the total deck area for all of the applicable bridges is calculated. Finally, the ratio is determined by dividing the total deck area of bridges for a classification condition by the total deck area for the applicable bridges. The result would be multiplied by 100 to get the final percentages for the performance measures (the percent of bridges in a particular classification). The equation is as follows:

$$Percentage\ (X.X\%)\ of\ NHS\ Bridges\ in\ a\ Classification = 100.0 * \frac{Total\ Deck\ Area\ of\ NHS\ Bridges\ in\ a\ Classification}{Total\ Deck\ Area\ of\ NHS\ Bridges\ in\ a\ State}$$

In § 490.409(d), FHWA proposes that these measures be used to establish targets and report targets and condition.

In § 490.409(e), FHWA notes that all of the NBI Items (*e.g.,* NBI Item 49—Structure Length, NBI Item 52—Deck Width) listed in this section are included in the ''Recording and Coding Guide for the Structure Inventory and Appraisal of the Nation's Bridges,'' which is incorporated by reference in § 490.111.

Discussion of § 490.411 Establishment of Minimum Level for Condition for Bridges

In § 490.411(a) through (c), FHWA incorporates the minimum condition level for bridges on the NHS established by 23 U.S.C. 119(f)(2). The minimum condition level is for State DOTs to maintain bridges so that the percentage of the deck area of bridges on the NHS classified as Structurally Deficient does not exceed 10 percent. This minimum is applicable to bridges on the NHS, to bridges on ramps connecting to the NHS within a State, and to bridges on the NHS that cross a State border.

The FHWA also proposes the source of data and the method to be used in assigning a classification of Structurally Deficient to a bridge. The NBI is the definitive source for national bridge information and has been used for many years to classify bridges as Structurally Deficient, determine eligibility for the Highway Bridge Program, and apportion Federal-aid funds. It is for these reasons the NBI is proposed to be the source of data for classifying a bridge as Structurally Deficient.

This section also proposes that the classification of Structurally Deficient be based on a bridge's condition ratings for the following NBI Items: 58—Deck, 59—Superstructure, 60—Substructure, 62—Culverts, and a bridge's appraisal ratings for NBI Items 67—Structural Evaluation, and 71—Waterway Adequacy. The proposed method for classification would be the same method used under the Highway Bridge Program. This classification methodology is found in the former Federal-aid Policy Guide Non-Regulatory Supplement, NS 23 CFR, Part 650 D, dated September 30, 1992, Transmittal 5, paragraph 9.a. (*http://www.fhwa.dot.gov/bridge/0650dsup.cfm*). This method would provide a continued focus of improving a specific population of bridges through the minimum condition level provisions established by 23 U.S.C. 119(f)(2).

In order to effectively implement FHWA's determination of State DOT minimum condition level and assessment of penalty in a timely manner, FHWA proposes in § 490.411(d) to make minimum condition level determinations for NHS bridges on an annual basis. These determinations would be based on data cleared in the NBI as of June 15 of each year. Under the NBIS, State DOTs are allowed up to 90 days after the date of inspection to enter Structure Inventory and Appraisal data into their inventory for State DOT bridges. For all other bridges, they are allowed up to 180 days. This time is needed for data processing, data quality management, data analysis, and other required business processes necessary to report quality data. Based on previous experiences with data management, FHWA anticipates State DOTs will need 90 days after submitting their inventory to the NBI to conduct checks to ensure data quality and completeness. Additionally, sufficient time is needed for FHWA's minimum condition level determination, for State DOT notification, and for FHWA to issue any resulting penalties so that they are effective by the beginning of the next fiscal year. After FHWA makes its compliance determination, it would notify all State DOTs of its determination prior to October 1 of the year in which the determination was made.

Thus, FHWA proposes in § 490.411(e) that the State DOTs submit their most current NBI data on highway bridges to FHWA no later than March 15 of each year. The FHWA recognizes that this is change from the practice of submitting NBI data every April 1; however, this change would allow for sufficient time to make a timely and accurate minimum condition determination.

The FHWA estimates that less than 1 percent of all bridges on the NHS are on Federal or tribal lands. The FHWA encourages State DOTs to consult and coordinate with all relevant entities (*e.g.,* Federal Land Management Agencies, tribal governments) so that NBI data for NHS bridges on Federal or tribal lands within a State's boundaries can be provided and considered when FHWA determines whether a State DOT has complied with the minimum condition requirements. Understanding this potential impact, FHWA is seeking comment from State DOTs on the proposal to implement the 23 U.S.C. 119(f)(2) minimum condition requirements.

The determination of compliance with the minimum condition requirements specified in 23 U.S.C. 119(f)(2) would be carried out by FHWA for fiscal year 2017 and annually thereafter. This timing is based on an assessment of minimum condition compliance NBI data submitted in 2014, 2015, and 2016. Following this implementation schedule, any penalties resulting from the minimum condition compliance determination would not be in effect until FY 2017 or by October 1, 2016.

In § 490.411(f), FHWA notes that all of the NBI Items (*e.g.,* NBI Item 49—Structure Length, NBI Item 52—Deck Width) listed in this section are included in the ''Recording and Coding Guide for the Structure Inventory and Appraisal of the Nation's Bridges'', which is incorporated by reference in 490.111.

Discussion of § 490.413 Penalties for Not Maintaining Bridge Condition

In § 490.413, FHWA incorporates into the proposed regulation the penalty for any State DOT that does not maintain the minimum condition level established by 23 U.S.C. 119(f)(2). The proposed section generally describes the minimum condition requirement and the consequences when a State fails to comply with those requirements.

In order to assess State DOT compliance with the minimum condition, for the 3-year period preceding the date of the determination, FHWA would evaluate annually whether more than 10.0 percent of the total deck area of NHS bridges in the State have been classified as structurally deficient. If more than 10 percent of the total deck area of NHS bridges in the State are classified as structurally deficient for the 3-year period preceding the date of determination, then the State would need to comply with the proposed 490.413, which incorporates the requirements found in 23 U.S.C. 119(f)(2).

Under this proposal, States that do not meet the minimum condition requirements would be required to obligate a set aside amount equal to 50 percent of the funds apportioned to the State for fiscal year 2009 to carry out the Highway Bridge Program, 23 U.S.C. 144, (as in effect on the day before enactment of MAP–21) from the amounts apportioned to a State for a fiscal year under section 104(b)(1) (the NHPP) only for eligible NHS bridge projects. The day before enactment of MAP–21, 23 U.S.C. 144 contained the requirements for the Highway Bridge Program.

The FHWA is proposing to require an obligation of a set-aside of certain NHPP funds during the fiscal year following the determination. While 23 U.S.C. 119(f)(2) only references set-aside, FHWA is proposing that set aside funds be obligated in order to implement the set aside requirement consistent with congressional treatment to address

Interstate Pavement Condition, which requires, in part, an obligation of certain NHPP funds if the State does not meet the minimum pavement condition requirements. The FHWA also proposes that the bridge minimum condition penalty would take effect during the fiscal year following the FHWA's determination.

A set aside is derived from a funding category and results in a portion of that funding being segregated and dedicated for a specific purpose (the set aside implementing this provision would be segregated from NHPP funds and dedicated to addressing NHS bridge conditions). Dedication to address bridge condition requires timely obligation. An obligation is considered a contractual commitment, which evidences the commitment of funds for the specific purpose. Pursuant to authority under 23 U.S.C. 315 and after taking into account the heading of 23 U.S.C. 119(f)(2)(A) indicating that this provision is a ''penalty,'' FHWA believes it would be appropriate to require both a set aside and obligation of NHPP funds. Implementation of the requirement in this manner would cause the States not to lose funds but, States would be required to timely obligate the set aside funds to address NHS bridge condition. Thus the States subject to this requirement would lose some flexibility with NHPP funds when the funds are obligated to address the bridge deficiencies. A requirement to obligate, in addition to set aside, NHPP funds would result in funding dedicated to improving NHS bridges. In addition, FHWA believes it is appropriate to specify the timing as to when the provision would take effect; otherwise the provision would have little meaning.

Both of these requirements would be consistent with the minimum Interstate pavement condition penalty in 23 U.S.C. 119(f)(1)(A), which requires an obligation of certain funds within a specific time period. To require different outcomes with respect to funding for pavement minimum condition and bridge minimum condition, when the purpose of both provisions is essentially the same (to require funding to be directed to improve condition), would seem to place a priority on pavement condition over bridge condition with no rationale to support the disparate treatment. This consistency in application of the penalty provisions is also important as pavement and bridge condition are both part of the NHPP program. The FHWA does not believe that prioritizing pavement condition over bridge condition is consistent with the national goal in 23 U.S.C. 150(b)(2) of maintaining all infrastructure assets in a state of good repair.

Pursuant to 23 U.S.C. 119(f)(2)(B), the requirement specified in 23 U.S.C. 119(f)(2)(A) remains in effect until less than 10.0 percent of the total deck area of the States' NHS bridges is located on bridges that have been classified as structurally deficient. The FHWA is proposing to implement this restoration requirement by making annual determinations of compliance.

As proposed in § 490.413(b), the determination of compliance with the minimum condition requirements specified in 23 U.S.C. 119(f)(2) would be carried out by FHWA in 2016 and annually thereafter. This timing is based on an assessment of minimum condition compliance with NBI data submitted in 2014, 2015, and 2016. Following this implementation schedule, any penalties resulting from the minimum condition compliance determination would not be in effect until FY 2017, or after October 1, 2016. State DOTs have been and currently are submitting the necessary NBI data to FHWA. As such, FHWA will have the data to make an annual determination of compliance beginning in 2016.[83] A proposed application of this NHPP minimum condition penalty is provided in the docket along with an example of its application.

VII. Rulemaking Analyses and Notices

All comments received before the close of business on the comment closing date indicated above will be considered and will be available for examination in the docket at the address noted in the above **ADDRESSES** section. Comments received after the comment closing date will be filed in the docket and will be considered to the extent practicable. A final rule may be published at any time after close of the comment period.

Please note that the proposed regulatory text that is presented below builds on, but is separate from, the regulatory text proposed in the FHWA's first Performance Measure NPRM published in the **Federal Register**. The regulatory text proposed in that first NPRM is included in the docket. Comments on that NPRM should be submitted in accordance with the instructions contained in that NPRM (docket number USDOT–2013–0020). When the three Performance Management rulemakings are completed, the combined regulatory text from each of the three rules will represent the entirety of 23 CFR part 490.

Executive Order 12866 (Regulatory Planning and Review), Executive Order 13563 (Improving Regulation and Regulatory Review), and DOT Regulatory Policies and Procedures

The FHWA has determined that this proposed rule constitutes an economically significant regulatory action within the meaning of Executive Order (E.O.) 12866 and within the meaning of the DOT regulatory policies and procedures. This action complies with E.O.s 12866 and 13563. This action is considered ''economically significant'' because this rulemaking will result in the transformation of the Federal-aid highway program so that the program focuses on national goals, provides for a greater level of accountability and transparency, and provides a means for the most efficient investment of Federal transportation funds. The FHWA has filed into the docket a Regulatory Impact Analysis (regulatory analysis or RIA) in support of the NPRM on National Performance Measures for Assessing Pavement and Bridge Conditions. The regulatory analysis estimates the economic impact, in terms of costs and benefits, on Federal, State, and local governments, as well as private entities regulated under this action, as required by E.O. 12866 and E.O. 13563, but does not currently attempt to directly quantify the changes from the improved decisionmaking. The economic impacts are measured on an incremental basis, relative to current pavement and bridge condition reporting practices.

This section of the NPRM identifies the estimated costs and benefits resulting from the proposed rule in order to inform policy makers and the public of the relative value of the current proposal. The complete RIA may be accessed from the rulemaking's docket (docket number FHWA–2013–0053).

The cornerstone of MAP–21's transformation of the highway program is the transition to a performance-based program. In accordance with the law, State DOTs would invest resources in projects to achieve performance targets that make progress toward national goals areas. The national performance goal area established for infrastructure condition is to maintain the highway infrastructure asset system in a state of good repair. In order to carry out this mandate, MAP–21 requires FHWA to promulgate a rule to establish pavement and bridge condition performance measures and standards. As required by

[83] Questions and Answer 2 on FHWA's MAP–21 Web site (*http://www.fhwa.dot.gov/map21/qandas/qabridges.cfm*), posted on 9/25/2012, provides information on the 3-year period that will be used for the first determination of compliance.

MAP–21, this NPRM identifies the following pavement and bridge performance measures for which State DOTs and MPOs must collect and report data, establish targets for performance, and make progress toward achievement of targets:

1. Percentage of lane-miles of the Interstate System in Good condition;

2. Percentage of lane-miles of the Interstate System in Poor condition;

3. Percentage of lane-miles of the non-Interstate NHS in Good condition;

4. Percentage of lane-miles of the non-Interstate NHS in Poor condition;

5. Percentage of NHS bridges classified as in Good condition; and

6. Percentage of NHS bridges classified as in Poor condition.

Estimated Cost of the Proposed Rule

To estimate costs for the proposed rule, FHWA assessed the level of effort, expressed in labor hours and the labor categories, and capital needed to comply with each component of the proposed rule. Level of effort by labor category is monetized with loaded wage rates to estimate total costs.

Table 7 displays the total cost of the proposed rule for the 10-year study period (2015–2024). Total costs are estimated to be $196.4 million undiscounted, $149.1 million discounted at 7 percent, and $173.2 million discounted at 3 percent. The costs in the table assume a portion of MPOs, approximately half of the estimated 420 MPOs, would establish their own targets and a portion would adopt State DOT targets. It is assumed that State DOTs and MPOs serving TMAs [84] would use staff to establish performance targets and MPOs not serving a TMA would agree to plan and program projects so that they contribute toward the accomplishment of the relevant State DOT targets and would therefore not incur any incremental costs. There are currently an estimated 210 MPOs serving TMAs. The FHWA made this assumption because larger MPOs may have more resources available to develop performance targets. The FHWA believes that this is a conservative estimate as larger MPOs may elect not to establish their own targets for any variety of reasons, including resource availability.

TABLE 7—TOTAL COST OF THE PROPOSED RULE

Cost components	10-yr Total cost		
	Undiscounted	7%	3%
Section 490.105–109—General Information, Target Establishment, Reporting on Progress, and Making Significant Progress	$93,283,261	$64,861,869	$79,297,035
Establish and Update Performance Targets	39,198,632	28,462,495	33,931,374
Assess Significant Progress Toward Achieving Performance Targets	1,122,098	703,058	913,432
Reporting on Performance Targets Progress	52,962,531	35,696,316	44,452,229
Section 490.309—Data Requirements—Interstate IRI, Rutting, and Faulting	30,712,622	23,081,249	26,984,444
Data Collection: IRI measurement in both directions	24,283,997	18,249,988	21,336,184
Tracking costs: establish measurement for rutting	489,800	368,096	430,344
Tracking costs: establish measurement for faulting	979,600	736,192	860,687
Data processing costs: Additional IRI data	1,653,075	1,242,324	1,452,410
Data processing costs: Additional rutting data	1,836,750	1,380,360	1,613,789
Data processing costs: Additional faulting data	1,469,400	1,104,288	1,291,031
Section 490.309—Data Requirements—Interstate Cracking	15,225,866	11,872,243	13,587,510
Fully Automated State DOTs: Additional Data Quality Control Costs	1,224,500	920,240	1,075,859
Semi-Automated State DOTs: Additional Data Processing & Quality Control Costs	4,006,853	3,011,243	3,520,464
Manual & State DOTs not currently collecting: Training costs to adopt automated methods	1,729,138	1,729,138	1,729,138
Manual & State DOTs not currently collecting: Data quality control costs	8,265,375	6,211,622	7,262,049
Section 490.309—Data Requirements—Non-Interstate NHS IRI, Rutting, and Faulting	5,616,835	4,050,700	4,855,720
Data Collection costs: Increase IRI Measurement to Cover 100 percent of non-interstate NHS miles	395,566	285,271	341,965
Data processing costs: Additional rutting and faulting data collected	636,740	459,199	550,458
Tracking costs: establish measurement for rutting	2,546,960	1,836,795	2,201,832
Tracking costs: establish measurement for faulting	2,037,568	1,469,436	1,761,466
Section 490.309—Data Requirements—Non-Interstate NHS Cracking	4,040,850	2,914,145	3,493,291
Additional data quality control costs for new data collection	4,040,850	2,914,145	3,493,291
Section 490.309—Data Requirements—Capital Costs	16,600,000	15,891,841	16,254,041
Profiler	9,100,000	8,391,841	8,754,041
Faulting Software	1,000,000	1,000,000	1,000,000
Cracking Video Equipment and Software Purchase	6,500,000	6,500,000	6,500,000
Section 490.313—Calculation of performance management measures	8,242,259	7,785,869	8,019,297
Reprogramming of software to allow Performance Calculations	6,405,509	6,405,509	6,405,509
FHWA's Management of Data Submissions	244,900	184,048	215,172
Filtering out Bridge Pavement from Pavement Data	1,591,850	1,196,312	1,398,617
Section 490.319—Other Requirements	15,962,695	12,007,317	14,030,362
Develop a Quality Management Program	44,194	44,194	44,194
Run New Quality Management Program	3,061,250	2,300,601	2,689,648
Improve Quality Management Program	12,857,251	9,662,522	11,296,520
Section 490.407—Calculation of bridge performance measures	6,759,061	6,671,211	6,716,144
Update Software to generate good/fair/poor condition	6,405,509	6,405,509	6,405,509
FHWA's Management of Data Submissions	353,552	265,703	310,635

[84] A TMA is an urbanized area having a population of over 200,000 or otherwise requested by the Governor and the MPO and officially designated by FHWA or FTA. 23 U.S.C. 134(k).

TABLE 7—TOTAL COST OF THE PROPOSED RULE—Continued

Cost components	10-yr Total cost		
	Undiscounted	7%	3%
Total Cost of Proposed Rule	196,443,449	149,136,445	173,237,846

* Totals may not sum due to rounding.

Break-Even Analysis

Currently, State DOTs differ from State to State in the way they measure the condition of their pavement. We do not believe their current methods are inadequate, but the methods are inconsistent and these differences hinder accurate analysis of infrastructure conditions at the national level. The proposed rulemaking would establish uniform condition measures for the purpose of carrying out the NHPP to assess condition of pavements on the NHS (excluding the Interstate System), condition of pavements on the Interstate System, and condition of bridges on the NHS. In addition, the rule would establish processes that: (1) State DOTs and MPOs use to report measures and establish performance targets, and (2) FHWA uses to assess progress that State DOTs have made toward achieving targets.

Upon implementation, FHWA expects that the proposed rule would result in certain benefits. Specifically, the proposed rule would allow for more informed decisionmaking on bridge and pavement condition-related project, program, and policy choices. The proposed rule also would yield greater accountability because the MAP–21-mandated reporting would increase visibility and transparency. In addition, the proposed rule would help focus the Federal-aid highway program on achieving balanced performance outcomes.

These benefits resulting from the proposed rule (*i.e.,* more informed decisionmaking, greater accountability, and greater focus on making progress toward the national goal for infrastructure condition) would lead to improved pavement and bridge conditions. The benefits resulting from performance measurement, while real and substantial, are difficult to monetize. For this proposed rule, FHWA quantified these benefits of the proposed rule by performing break-even analyses as described in Office of Management and Budget Circular A–4. A break-even analysis calculates the threshold a specific variable must achieve in order for benefits to equal costs, holding every other variable in the analysis constant. For both pavements and bridges, FHWA focused its break-even analyses on VOCs savings because users typically garner the greatest concentration of benefits from transportation projects. The DOT estimated the number of road miles of deficient pavement that would have to be improved and the number of posted bridges that would have to be avoided in order for the benefits of the rule to justify the costs.

Table 8 presents the results from the pavement break-even analysis. The results represent the savings in VOC to automobile and truck drivers from pavement conditions that are improved from Poor to Good. The analysis shows that the proposed rule would need to result in the net improvement of approximately 435 miles of pavement (*i.e.,* to Good condition) per year, or 4,350 miles over 10 years, that would otherwise not have been improved without the proposed rule. The annual break-even point represents approximately 1.9 percent of the NHS miles currently estimated to be in poor condition. Based on recent trends in improving road condition, FHWA believes improving 435 miles of pavement per year or 4,350 miles over 10 years as a result of this rule is achievable. Using a related benchmark as a point of reference, between 2000 and 2010, the percentage of VMT on NHS pavements with ''Good'' ride quality increased from 48 percent to 60 percent. On average, this is equivalent to a 1.2 percent increase in improved VMT per year.[85]

TABLE 8—BREAK-EVEN IMPROVEMENT OF PAVEMENT CONDITIONS (IMPROVED FROM POOR)

	Annual improved from poor VMT needed	Annual poor VMT (total VMT * 4.9%)	Percent of poor VMT needing improvement	Current NHS miles estimated to be in poor condition	Approximate number of poor NHS miles needing improvement from poor
	a	b	c = a ÷ b	d	e = c * d
Maintenance	7,398,564,204	79,778,275,896	9.24%	22,827	2,109
Fuel	1,946,081,966	79,778,275,896	2.43%	22,827	555
Tires	175,596,118,543	79,778,275,896	219.25%	22,827	50,049
Total	1,527,395,633	79,778,275,896	1.91%	22,827	435

* Please refer to the Summary Report for details on the methodology used in the analysis.

Table 9 presents the results from the bridge break-even analysis which calculates the number of year-long bridge postings that would need to be reduced as a result of the proposed rule in order for the benefits of the bridge condition requirements to justify the costs. The FHWA estimated the average cost per year of a bridge posting (column E in Table 9). With the undiscounted cost of the bridge requirements and this average cost of a bridge posting, the analysis estimates the number of year-long bridge postings that need to be avoided in order to make

[85] U.S. Department of Transportation, Federal Highway Administration. 2013 Status of the Nation's Highways, Bridges, and Transit: Conditions & Performance Report to Congress. *http://www.fhwa.dot.gov/policy/2013cpr/pdfs/littlebook.pdf.*

the benefits of the proposed rule justify the cost. The break-even analysis estimates that 2 year-long bridge postings need to be avoided over 10 years in order for benefits to justify costs. As a basis for comparison, NBI data indicate that currently there are approximately 85 NHS bridges posted for trucks. Over the 10 year period of 2003–2012 the number of NHS bridges posted for truck declined from 145 to 85. Trends in the United States demonstrated by bridge owners provide evidence that posted bridges receive priority consideration in work schedules. With the increased performance requirements of this rule, it is reasonable to assume that at a minimum, a reduction in the posted load limit of one bridge annually nationwide would be achieved to provide the needed benefit to justify the costs of complying with this rule.

TABLE 9—BREAK-EVEN BRIDGE DETOURS

Undiscounted 10 year cost of proposed bridge rule	Average truck user cost per VMT	Average distance per detour (miles)	Average cost of detour per trucks	Average cost per year of each bridge posting	Equivalent number of year-long posts that need to be avoided	Annual number of year-long posts that need to be avoided
a	b	c	d = b × c	e = d * 1,940 ADT * 365.25	f = a ÷ e	g = f ÷ 10 years
$53,400,692	$1.69	20	$33.82	$23,964,028	2	0.2

* Please refer to the Summary Report for details on the methodology used in the analysis.

Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act (Pub. L. 96–354, 5 U.S.C. 601–612), FHWA has evaluated the effects of this action on small entities and has determined that the action would not have a significant economic impact on a substantial number of small entities. The proposed rule affects State governments and MPOs. State DOTs are not included in the definition of small entity set forth in 5 U.S.C. 601. The MPOs are considered governmental jurisdictions, so the small entity standard for these entities is whether the affected MPOs serve less than 50,000 people. As discussed in the RIA, the proposed rule is expected to impose costs on MPOs that serve TMAs, which generally have populations exceeding 200,000. Further, MPOs serve urbanized areas with populations of more than 50,000. Therefore, the MPOs that incur economic impacts under this proposed rule do not meet the definition of a small entity.

Therefore, the Regulatory Flexibility Act does not apply, and I hereby certify that the proposed action would not have a significant economic impact on a substantial number of small entities.

Unfunded Mandates Reform Act of 1995

The FHWA has determined that this NPRM would not impose unfunded mandates as defined by the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4, March 22, 1995, 109 Stat. 48). This rule does not contain a Federal mandate that may result in expenditures of $143.1 million or more in any one year (when adjusted for inflation) in 2012 dollars for either State, local, and tribal governments in the aggregate, or by the private sector. The FHWA will publish a final analysis, including its response to public comments, when it publishes a final rule. Additionally, the definition of ''Federal mandate'' in the Unfunded Mandates Reform Act excludes financial assistance of the type in which State, local, or tribal governments have authority to adjust their participation in the program in accordance with changes made in the program by the Federal Government. The Federal-aid highway program permits this type of flexibility.

Executive Order 13132 (Federalism Assessment)

The FHWA has analyzed this NPRM in accordance with the principles and criteria contained in E.O. 13132. The FHWA has determined that this action would not have sufficient federalism implications to warrant the preparation of a federalism assessment. The FHWA has also determined that this action would not preempt any State law or State regulation or affect the States' ability to discharge traditional State governmental functions.

Executive Order 12372 (Intergovernmental Review)

Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing E.O. 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.

Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501, *et seq.*), Federal agencies must obtain approval from OMB for each collection of information they conduct, sponsor, or require through regulations. The FHWA has analyzed this proposed rule under the PRA and has determined that this proposal contains collection of information requirements for the purposes of the PRA.

This proposed rule provides definitions and outlines processes for bridge and pavement performance measures and reporting. Some burdens in this proposed rule would be realized in other reporting areas as described below. The PRA activities that are already covered by existing OMB Clearances have reference numbers for those clearances as follows: HPMS information collection, OMB No. 2125–0028 with an expiration of June 30, 2015; and National Bridge Inventory, OMB No. 2125–0501 with an expiration date of December 31, 2014. Any increase in PRA burdens caused by MAP–21 in these areas will be addressed in PRA approval requests associated with those collections.

This rulemaking requires the submittal of biennial performance reports. The FHWA has analyzed this proposed rule under the PRA and has determined the following:

Respondents: Approximately 262 applicants consisting of States and MPOs.

Frequency: Biennially.

Estimated Average Burden per Response: Approximately 416 hours to complete and submit the report.

Estimated Total Annual Burden Hours: Approximately 54,496 hours annually.

The FHWA invites interested persons to submit comments on any aspect of the information collection. Comments submitted on the information collection proposed in this NPRM will be summarized or included, or both, in the request for OMB approval of this information collection.

National Environmental Policy Act

The FHWA has analyzed this action for the purpose of the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 *et seq.*), and has determined that this action would not have any effect on the quality of the environment and meets the criteria for the categorical exclusion at 23 CFR 771.117(c)(20), which covers the promulgation of regulations.

Executive Order 12630 (Taking of Private Property)

The FHWA has analyzed this proposed rule under E.O. 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights. The FHWA does not anticipate that this proposed action would affect a taking of private property or otherwise have taking implications under E.O. 12630.

Executive Order 12988 (Civil Justice Reform)

This action meets applicable standards in sections 3(a) and 3(b)(2) of E.O. 12988, Civil Justice Reform, to minimize litigation, eliminates ambiguity, and reduce burden.

Executive Order 13045 (Protection of Children)

We have analyzed this proposed rule under E.O. 13045, Protection of Children from Environmental Health Risks and Safety Risks. The FHWA certifies that this action would not cause an environmental risk to health or safety that might disproportionately affect children.

Executive Order 13175 (Tribal Consultation)

The FHWA has analyzed this action under E.O.13175, dated November 6, 2000, and believes that the proposed action would not have substantial direct effects on one or more Indian tribes; would not impose substantial direct compliance costs on Indian tribal governments; and would not preempt tribal laws. The proposed rulemaking addresses obligations of Federal funds to States for Federal-aid highway projects and would not impose any direct compliance requirements on Indian tribal governments. Therefore, a tribal summary impact statement is not required.

Executive Order 12898 (Environmental Justice)

The E.O. 12898 requires that each Federal agency make achieving environmental justice part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minorities and low-income populations. The FHWA has determined that this proposed rule does not raise any environmental justice issues.

Executive Order 13211 (Energy Effects)

The FHWA has analyzed this action under E.O. 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. The FHWA has determined that this is not a significant energy action under E.O. 13211 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. Therefore, a Statement of Energy Effects is not required.

Regulation Identification Number

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

List of Subjects in 23 CFR Part 490

Bridges, Highway safety, Highways and roads, Reporting and recordkeeping requirements.

Issued in Washington, DC, on December 18, 2014, under authority delegated in 49 CFR 1.85.

Gregory G. Nadeau,

Acting Administrator, FHWA Administration.

In consideration of the foregoing, FHWA proposes to amend 23 CFR part 490, as proposed to be added at 79 FR 13846, March 11, 2014, as follows:

PART 490—NATIONAL PERFORMANCE MANAGEMENT MEASURES

■ 1. The authority citation for part 490 continues to read as follows:

Authority: 23 U.S.C. 134, 135, 148(i), and 150; 49 CFR 1.85.

■ 2. Revise subpart A to read as follows:

Subpart A—General Information

Sec.

490.101 Definitions
490.103 Data Requirements
490.105 Establishment of Performance Targets
490.107 Reporting on Performance Targets
490.109 Assessing Significant Progress toward Achieving the Performance Targets for the National Highway Performance Program
490.111 Incorporation by reference

§ 490.101 Definitions.

Unless otherwise specified, the following definitions apply to the entire part 490:

Full Extent means continuous collection and evaluation of pavement condition data over the entire length of the roadway.

Highway Performance Monitoring System (HPMS) is a national level highway information system that includes data on the extent, condition, performance, use, and operating characteristics of the Nation's highways.

Mainline highways means the through travel lanes of any highway. Mainline highways specifically exclude ramps, shoulders, turn lanes, crossovers, rest areas, and other pavement surfaces that are not part of the roadway normally travelled by through traffic.

Measure means an expression based on a metric that is used to establish targets and to assess progress toward achieving the established targets (*e.g.,* a measure for flight on-time performance is percent of flights that arrive on time, and a corresponding metric is an arithmetic difference between scheduled and actual arrival time for each flight).

Metric means a quantifiable indicator of performance or condition.

National Bridge Inventory (NBI) is an FHWA database containing bridge information and inspection data for all highway bridges on public roads, on and off Federal-aid highways, including tribally owned and federally owned bridges, that are subject to the National Bridge Inspection Standards (NBIS).

Non-Urbanized Area means any geographic area that is not an ''urbanized area'' under either 23 U.S.C. 101(a)(34).

Performance period means a determined time period during which condition/performance is measured and evaluated to: (1) Assess condition/performance with respect to baseline condition/performance; and (2) track progress toward the achievement of the targets that represent the intended condition/performance level at the midpoint and at the end of that time period. The term ''performance period'' applies to all proposed measures in this Part, except the measures proposed for the Highway Safety Improvement Program (HSIP) in Subpart B. Each performance period covers a 4-year duration beginning on a specified date (provided in § 490.105).

Target means a quantifiable level of performance or condition, expressed as a value for the measure, to be achieved within a time period required by FHWA.

§ 490.103 Data requirements.

(a) *In general.* Unless otherwise noted below, the data requirements in this section applies to the measures identified in Subparts B–C. Additional data requirements for specific performance management measures are identified in 23 CFRs—

(1) 490.309 for the condition of pavements on the Interstate System;

(2) 490.309 for the condition of pavements on the non-Interstate NHS;

(3) 490.409 for the condition of bridges on the NHS;

(4) [Reserved].

(b) *Urbanized area data.* The State DOTs shall submit urbanized area data, including boundaries of urbanized areas, in accordance with the HPMS Field Manual for the purpose of the additional targets for urbanized and non-urbanized areas in § 490.105(e) and IRI rating determination in § 490.313(b)(1). The boundaries of urbanized areas shall be identified based on the most recent U.S. Decennial Census, unless FHWA approves adjustments to the urbanized area as provided by 23 U.S.C. 101(a)(34), and these adjustments are submitted to HPMS, available at the time when the State DOT Baseline Performance Period Report is due to FHWA.

(c) [Reserved].

(d) *National Highway System data.* The State DOTs shall document and submit the extent of the NHS in accordance with the HPMS Field Manual.

§ 490.105 Establishment of performance targets.

(a) *In general.* State Departments of Transportation (State DOTs) shall establish performance targets for all measures specified in paragraph (c) of this section for respective target scope identified in paragraph (d) with the requirements specified in paragraph (e) of this section, and the Metropolitan Planning Organizations (MPOs) shall establish performance targets for all measures specified in paragraph (c) for respective target scope identified in paragraph (d) of this section with the requirements specified in paragraph (f) of this section.

(b) *Highway Safety Improvement Program measures.* State DOTs and MPOs shall establish performance targets for the Highway Safety Improvement Program (HSIP) measures in accordance with § 490.209.

(c) *Applicable measures.* State DOTs and MPOs that include, within their respective geographic boundaries, any portion of the applicable transportation network shall establish performance targets for the performance measures identified in 23 CFRs—

(1) 490.307(a)(1) and (2) for the condition of pavements on the Interstate System;

(2) 490.307(a)(3) and (4) for the condition of pavements on the National Highway System (NHS) (excluding the Interstate); and

(3) 490.407(c)(1) and (2) for the condition of bridges on the NHS.

(d) *Target scope.* Targets established by the State DOT and MPO shall, regardless of ownership, represent the transportation network, including bridges that cross State borders, that are applicable to the measures as specified in paragraphs (d)(1) and (2).

(1) State DOTs and MPOs shall establish Statewide and metropolitan planning areawide targets, respectively, that represent the condition/performance of the transportation network that is applicable to the measure, as specified in 23 CFR—

(i) 490.303 for the condition of pavements on the Interstate System;

(ii) 490.303 for the condition of pavements on the non-Interstate NHS; and

(iii) 490.403 for the condition of bridges on the NHS.

(2) [Reserved].

(3) For the purpose of target establishment in this section, reporting targets and progress evaluation in § 490.107 and significant progress determination in § 490.109, State DOTs shall declare and describe the NHS limits and urbanized area boundaries within the State boundary in the Baseline Performance Period Report required by § 490.107(b)(1). Any changes in NHS limits or urbanized area boundaries during a performance period would not be accounted for until the following performance period.

(e) *State DOT target setting.* State DOTs shall establish targets for each of the performance measures identified in paragraph (c) of this section for respective target scope identified in paragraph (d) of this section as follows:

(1) *Schedule.* State DOTs shall establish targets not later than 1 year of the effective date of this rule and for each performance period thereafter, in a manner that allows for the time needed to meet the requirements specified in this section and so that the final targets are submitted to FHWA by the due date provided in § 490.107(b).

(2) *Coordination.* State DOTs shall coordinate with relevant MPOs on the selection of targets in accordance with 23 U.S.C. 135(d)(2)(B)(i)(II) to ensure consistency, to the maximum extent practicable.

(3) *Additional targets for urbanized and non-urbanized areas.* In addition to statewide targets, described in paragraph (d)(1) of this section, State DOTs may, as appropriate, for each statewide target establish additional targets for portions of the State.

(i) A State DOT shall declare and describe in the Baseline Performance Period Report required by § 490.107(b)(1) the boundaries used to establish each additional target. Any changes in boundaries during a performance period would not be accounted for until the following performance period.

(ii) State DOTs may select any number and combination of urbanized area boundaries and may also select a non-urbanized area boundary for the establishment of additional targets.

(iii) The boundaries used by the State DOT for additional targets shall be contained within the geographic boundary of the State and available to the FHWA.

(iv) State DOTs shall evaluate separately the progress of each additional target and report that progress as required under § 490.107(b)(2)(ii)(B) and (b)(3)(ii)(B).

(4) *Time horizon for targets.* State DOTs shall establish targets for a performance period as follows:

(i) The performance period will begin on:

(A) January 1 of the year in which the Baseline Performance Period Report is due to FHWA and will extend for a duration of 4 years for the measures in paragraphs (c)(1) through (3) of this section; and

(B) [Reserved].

(ii) The midpoint of a performance period will occur 2 years after the beginning of a performance period described in paragraph (e)(4)(i) of this section.

(iii) State DOTs shall establish 2-year targets that reflect the anticipated condition/performance level at the midpoint of each performance period.

(iv) State DOTs shall establish 4-year targets that reflect the anticipated condition/performance level at the end of each performance period.

(5) *Reporting.* State DOTs shall report 2-year targets, 4-year targets, the basis for each established target, progress made toward the achievement of targets, and other requirements to FHWA in accordance with § 490.107, and the State DOTs shall provide relevant MPO(s) targets to FHWA, upon request, each time the relevant MPOs establish or adjust MPO targets, as described in paragraph (f) of this section.

(6) *Target adjustment.* State DOTs may adjust an established 4-year target

in the Mid Performance Period Progress Report, as described in § 490.107(b)(2).

(7) *Phase-in of new requirements for Interstate System pavement condition measures.* The following requirements apply only to the first performance period and the measures in § 490.307(a)(1) and (2):

(i) State DOTs shall establish their 4-year targets, required under paragraph (e)(4)(iv) of this section, and report these targets in their Baseline Performance Period Report, required under § 490.107(b)(1);

(ii) State DOTs shall not report 2-year targets, described in paragraph (e)(4)(iii) of this section, and baseline condition/performance in their Baseline Performance Period Report; and

(iii) State DOTs shall update the baseline condition/performance in their Baseline Performance Period Report, with the 2-year condition/performance in their Mid Performance Period Progress Report, described in § 490.107(b)(2)(ii)(A). State DOTs may also adjust their 4-year targets, as appropriate.

(f) *MPO target setting.* The MPOs shall establish targets for each of the performance measures identified in paragraph (c) of this section for respective target scope identified in paragraph (d) of this section as follows:

(1) *Schedule.* The MPOs shall establish targets no later than 180 days after the respective State DOT(s) establishes their targets, described in paragraph (e)(1) of this section.

(i) The MPOs shall establish 4-year targets, described in paragraph (e)(4)(iv) of this section, for all applicable measures, described in paragraphs (c)–(d) of this section.

(ii) Reserved.

(2) *Coordination.* The MPOs shall coordinate with relevant State DOT(s) on the selection of targets in accordance with 23 U.S.C. 134(h)(2)(B)(i)(II) to ensure consistency, to the maximum extent practicable.

(3) *Time horizon for targets.* The MPOs shall establish 4-year targets that reflect the anticipated condition/performance level at the end of each performance period, described in paragraph (e)(4) of this section. The MPOs are not required to establish 2-year targets.

(4) *Target establishment options.* The MPOs shall establish targets by either:

(i) Agreeing to plan and program projects so that they contribute toward the accomplishment of the relevant State DOT targets; or

(ii) Committing to quantifiable targets for their metropolitan planning area.

(5) [Reserved].

(6) [Reserved].

(7) *MPO response to State DOT target adjustment.* If the State DOT adjusts a 4-year target in the State DOT's Mid Performance Period Progress Report and if, for this respective target, the MPO established a target by supporting the State DOT target as allowed under paragraph (f)(4)(i) of this section, then the MPO shall, within 180 days, report to the State DOT whether they will either:

(i) Agree to plan a program of projects so that they contribute to the adjusted State DOT target; or

(ii) Commit to a new quantifiable target for its metropolitan planning area.

(8) *Target adjustment.*— If the MPO establishes its target by committing to a quantifiable target, described in paragraph (f)(4)(ii) of this section, then the MPOs may adjust its target(s) in a manner that is agreed upon and documented in the metropolitan planning agreement in accordance with part 450 of this chapter.

(9) *Reporting.*—The MPOs shall report targets and progress toward the achievement of their targets as specified in § 490.107(c). After the MPOs establish or adjust their targets, the relevant State DOT(s) must be able to provide these targets to FHWA, upon request.

§ 490.107 Reporting on performance targets.

(a) *In general.* All State DOTs and MPOs shall report the information specified in this section for the targets required in § 490.105.

(1) All State DOTs and MPOs shall report in accordance with the schedule and content requirements under paragraphs (b) and (c) of this section, respectively.

(2) For the measures identified in § 490.207(a), all State DOTs and MPO shall report on performance in accordance with § 490.213.

(3) State DOTs shall report using an electronic template provided by FHWA.

(b) *State Biennial Performance Report.* State DOTs shall report to FHWA baseline condition/performance at the beginning of a performance period and progress achievement at both the midpoint and end of a performance period. State DOTs shall report at an ongoing 2-year frequency as specified in paragraphs (b)(1), (2), and (3) of this section.

(1) *Baseline Performance Period Report*— (i) *Schedule.* State DOTs shall submit a Baseline Performance Period Report to FHWA by October 1 of the first year in a performance period. State DOTs shall submit their first Baseline Performance Period Report to FHWA by October 1, 2016, and subsequent Baseline Performance Period Reports to FHWA by October 1 every 4 years thereafter.

(ii) *Content.* The State DOT shall report the following information in each Baseline Performance Period Report:

(A) *Targets.* Two-year and 4-year targets for the performance period, as required in § 490.105(e), and a discussion, to the maximum extent practicable, of the basis for each established target;

(B) *Baseline condition/performance,* Baseline condition/performance derived from the latest data collected through the begin date of the performance period specified in § 490.105(e)(4) for each target, required under paragraph (b)(1)(ii)(A) of this section;

(C) *Relationship with other performance expectations.* A discussion, to the maximum extent practicable, on how the established targets in paragraph (b)(1)(ii)(A) of this section support expectations documented in longer range plans, such as the State asset management plan required by 23 U.S.C. 119(e) and the long-range statewide transportation plan provided in part 450 of this chapter;

(D) *Urbanized area boundaries and population data for targets.* For the purpose of determining target scope in § 490.105(d), determining IRI rating in § 490.313(b)(1), and establishing additional targets for urbanized and non-urbanized areas in § 490.105(e)(3), State DOTs shall document the boundary extent for all applicable urbanized areas and the latest Decennial Census population data, based on information in HPMS;

(E) *NHS limits for targets.* For the purpose of determining target scope in § 490.105(d), State DOTs shall document the extent of the NHS, based on information in the HPMS.

(2) *Mid Performance Period Progress Report*—(i) *Schedule.*—State DOTs shall submit a Mid Performance Period Progress Report to FHWA by October 1 of the third year in a performance period. State DOTs shall submit their first Mid Performance Period Progress Report to FHWA by October 1, 2018, and subsequent Mid Performance Period Progress Reports to FHWA by October 1 every 4 years thereafter.

(ii) *Content.* The State DOT shall report the following information in each Mid Performance Period Progress Report:

(A) *Two-year condition/performance.* The actual condition/performance derived from the latest data collected through the midpoint of the performance period, specified in § 490.105(e)(4), for each State DOT

reported target required in paragraph (b)(1)(ii)(A) of this section;

(B) *Two-year progress in achieving performance targets.* A discussion of the State DOT's progress toward achieving each established 2-year target in paragraph (b)(1)(ii)(A) of this section. The State DOT shall compare the actual 2-year condition/performance in paragraph (b)(2)(ii)(A) of this section, within the boundaries and limits documented in paragraphs (b)(1)(ii)(D) and (E) of this section, with the respective 2-year target and document in the discussion any reasons for differences in the actual and target values;

(C) *Investment strategy discussion.* A discussion on the effectiveness of the investment strategies developed and documented in the State asset management plan for the NHS required under 23 U.S.C. 119(e);

(D) [Reserved];

(E) *Target adjustment discussion.* When applicable, a State DOT may submit an adjusted 4-year target to replace an established 4-year target in paragraph (b)(1)(ii)(A) of this section. If the State DOT adjusts its target, it shall include a discussion on the basis for the adjustment and how the adjusted target supports expectations documented in longer range plans, such as the State asset management plan and the long-range statewide transportation plan. The State DOT may only adjust a 4-year target at the midpoint and by reporting the change in the Mid Performance Period Progress Report.

(F) *Two-year significant progress discussion for the National Highway Performance Program (NHPP) targets.* State DOTs shall discuss the progress they have made toward the achievement of all 2-year targets established for the NHPP measures in § 490.105(c)(1) through (3). This discussion should document a summary of prior accomplishments and planned activities that will be conducted during the remainder of the Performance Period to make significant progress toward that achievement of 4-year targets for NHPP measures;

(G) *Extenuating Circumstances discussion on NHPP 2-year targets.* When applicable, a State DOT may include a discussion on the extenuating circumstance(s), described in § 490.109(e)(5), beyond the State DOT's control that prevented the State DOT from making 2-year significant progress toward achieving NHPP target(s) in paragraph (b)(2)(ii)(F) of this section; and

(H) *NHPP Target Achievement Discussion.* If FHWA determines that a State DOT has not made significant progress toward the achievement of NHPP targets in two consecutive biennial FHWA determinations, then the State DOT shall include a description of the actions they will undertake to better achieve NHPP targets as required under § 490.109(f). If FHWA determines under § 490.109(e) that the State DOT has achieved significant progress, then the State DOT does not need to include this description.

(3) *Full Performance Period Progress Report*—(i) *Schedule.*—State DOTs shall submit a progress report on the full performance period to FHWA by October 1 of the first year following the reference performance period. State DOTs shall submit their first Full Performance Period Progress Report to FHWA by October 1, 2020, and subsequent Full Performance Period Progress Reports to FHWA by October 1 every 4 years thereafter.

(ii) *Content.* The State DOT shall report the following information for each Full Performance Period Progress Report:

(A) *Four-year condition/performance.* The actual condition/performance derived from the latest data collected through the end of the Performance Period, specified in § 490.105(e)(4), for each State DOT reported target required in paragraph (b)(1)(ii)(A) of this section;

(B) *Four-year progress in achieving performance targets.* A discussion of State DOT's progress made toward achieving each established 4-year target in paragraph (b)(1)(ii)(A) or (E) of this section, when applicable. The State DOT shall compare the actual 4-year condition/performance in paragraph (b)(3)(ii)(A) of this section, within the boundaries and limits documented in paragraph (b)(1)(ii)(D) and (E) of this section, with the respective 4-year target and document in the discussion any reasons for differences in the actual and target values;

(C) *Investment strategy discussion.* A discussion on the effectiveness of the investment strategies developed and documented in the State asset management plan for the NHS required under 23 U.S.C. 119(e);

(D) [Reserved];

(E) *Four-year significant progress evaluation for NHPP targets.*—State DOTs shall discuss the progress they have made toward the achievement of all 4-year targets established for the NHPP measures in § 490.105(c)(1) through (3). This discussion shall include a summary of accomplishments achieved during the Performance Period to demonstrate whether the State DOT has made significant progress toward achievement of 4-year targets for NHPP measures.

(F) *Extenuating circumstances discussion on NHPP targets.* When applicable, a State DOT may include discussion on the extenuating circumstance(s), described in § 490.109(e)(5), beyond the State DOT's control that prevented the State DOT from making a 4-year significant progress toward achieving NHPP targets, described in paragraph (b)(3)(ii)(E) of this section; and

(G) *NHPP target achievement discussion.* If FHWA determines that a State DOT has not made significant progress toward the achievement of NHPP targets in two consecutive biennial FHWA determinations, then the State DOT shall include a description of the actions they will undertake to better achieve NHPP targets as required under § 490.109(f). If FHWA determines in § 490.109(e) that the State DOT has achieved significant progress, then the State DOT does not need to include this description.

(c) *MPO report.* MPOs shall establish targets in accordance with § 490.105 and report targets and progress toward the achievement of their targets in a manner that is consistent with the following:

(1) The MPOs shall report their established targets to their respective State DOT in a manner that is agreed upon by both parties and documented in the Metropolitan Planning Agreement in accordance with part 450 of this chapter.

(2) The MPOs shall report baseline condition/performance and progress toward the achievement of their targets in the system performance report in the metropolitan transportation plan in accordance with part 450 of this chapter.

§ 490.109 Assessing significant progress toward achieving the performance targets for the National Highway Performance Program.

(a) *In general.* The FHWA will assess each of the State DOT targets separately for the NHPP measures specified in § 490.105(c)(1) through (3) to determine the significant progress made toward the achievement of those targets.

(b) *Frequency.* The FHWA will determine whether a State DOT has or has not made significant progress toward the achievement of NHPP targets as described in paragraph (e) of this section at the midpoint and the end of each performance period.

(c) *Schedule.* The FHWA will determine significant progress toward the achievement of a State DOT's NHPP targets after the State DOT submits the Mid Performance Period Progress Report

for progress toward the achievement of 2-year targets, and again after the State DOT submits the Full Performance Period Progress Report for progress toward the achievement of 4-year targets. The FHWA will notify State DOTs of the outcome of the determination of the State DOT's ability to make significant progress toward the achievement of its NHPP targets.

(d) *Source of data/information.* The FHWA will use the following sources of information to assess NHPP condition and performance progress:

(1) Data contained within the HPMS on June 15 of the year in which the significant progress determination is made that represents conditions from the prior year for targets established for Interstate System pavement condition measures, as specified in § 490.105(c)(1);

(2) Data contained within the HPMS on August 15 of the year in which the significant progress determination is made that represents conditions from the prior year for targets established for non-Interstate NHS pavement condition measures, as specified in § 490.105(c)(2);

(3) The most recently available data contained within the NBI as of June 15 of the year in which the significant progress determination is made for targets established for NHS bridge condition measures, as specified in § 490.105(c)(3); and

(4) The urbanized area boundary and NHS limit data in the HPMS as documented in the Baseline Period Performance Report specified in § 490.107(b)(1)(ii)(D) and (E).

(e) *Significant progress determination for individual NHPP targets*—(1) *In general.* The FHWA will biennially assess whether the State DOT has achieved or made significant progress towards each target established by the State DOT for the NHPP measures described in § 490.105(c)(1) and (3). The FHWA will assess the significant progress of each statewide target separately using the condition/performance data/information sources described in paragraph (d) of this section. The FHWA will not assess the progress achieved for any additional targets a State DOT may establish under § 490.105(e)(3).

(2) *Significant Progress toward individual NHPP Targets.* The FHWA will determine that a State DOT has made significant progress toward the achievement of each 2-year or 4-year NHPP target if either:

(i) The actual condition/performance level is better than the baseline condition/performance reported in the State DOT Baseline Performance Period Report; or

(ii) The actual condition/performance level is equal to or better than the established target.

(3) *Phase-in of new requirements for Interstate System pavement condition measures.* The following requirements shall only apply to the first performance period and the Interstate System pavement condition targets, described in § 490.105(e)(7):

(i) At the midpoint of the first performance period, FHWA will not make a determination of significant progress toward the achievement of 2-year targets for Interstate System pavement condition measures.

(ii) The FHWA will classify the assessment of progress toward the achievement of targets in paragraph (e)(3)(i) of this section as ''progress not determined'' so that they will be excluded from the requirement under paragraph (e)(2) of this section.

(4) *Insufficient data and/or information.* If a State DOT does not provide sufficient data and/or information, required under paragraph (d) of this section and § 490.107, necessary for FHWA to make significant progress determination for each NHPP target, FHWA will determine that the State DOT has not made significant progress toward the achievement of the applicable NHPP target(s).

(5) *Extenuating circumstances.* The FHWA will consider extenuating circumstances documented by the State DOT in the assessment of progress toward the achievement of NHPP targets in the relevant State Biennial Performance Report, provided in § 490.107.

(i) The FHWA will classify the assessment of progress toward the achievement of an individual 2-year or 4-year target as ''progress not determined'' if the State DOT has provided an explanation of the extenuating circumstances beyond the control of the State DOT that prevented it from making significant progress toward the achievement of a 2-year or 4-year target and the State DOT has quantified the impacts on the condition/performance that resulted from the circumstances, which include:

(A) Natural or man-made disasters that caused delay in NHPP project delivery, extenuating delay in data collection, and/or damage/loss of data system;

(B) Sudden discontinuation of Federal Government furnished data due to natural and man-made disasters or lack of funding; and/or

(C) New law and/or regulation directing State DOTs to change metric and/or measure calculation.

(ii) If the State DOT's explanation, described in paragraph (e)(5)(i) of this section, is accepted by FHWA, FHWA will classify the progress towards achieving the relevant NHPP target(s) as ''progress not determined,'' and those targets will be excluded from the requirement in paragraph (e)(2) of this section.

(f) *Performance achievement.* If FHWA determines that a State DOT has not made significant progress towards the achievement of NHPP targets in two consecutive FHWA determinations, then the State DOT shall include in its next Biennial Performance Report a description of the actions the State DOT will undertake to achieve the targets related to the measure in which significant progress was not achieved as follows:

(1) If significant progress is not made for either target established for the Interstate System pavement condition measures, § 490.307(a)(1) and (2), then the State DOT shall document the actions they will take to improve Interstate Pavement conditions;

(2) If significant progress is not made for either target established for the Non-Interstate System pavement condition measures, § 490.307(a)(3) and (4), then the State DOT shall document the actions they will take to improve Non-Interstate Pavement conditions.

(3) If significant progress is not made for either target established for the NHS bridge condition measures, § 490.407(c)(1) and (2), then the State DOT shall document the actions they will take to improve NHS bridge conditions.

(4) [Reserved].

(5) [Reserved].

(6) The State DOT should, within 6 months of the significant progress determination and in a format that can be made available to FHWA, document the information specified in this paragraph to ensure actions are being taken to improve progress.

(7) [Reserved].

§ 490.111 Incorporation by reference.

(a) Certain material is incorporated by reference into this part with the approval of the Director of the Federal Register under 5 U.S.C. 552(a) and 1 CFR part 51. To enforce any edition other than that specified in this section, FHWA must publish a notice of change in the **Federal Register** and the material must be available to the public. All approved material is available for inspection at the Federal Highway Administration, Office of Highway

Policy Information (202–366–4631) and is available from the sources listed below. It is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030 or go to *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html*.

(b) The Federal Highway Administration, 1200 New Jersey Avenue SE., Washington, DC 20590, *www.fhwa.dot.gov*.

(1) Highway Performance Monitoring System (HPMS) Field Manual, IBR approved for subpart A though C.

(2) Recording and Coding Guide for the Structure Inventory and Appraisal of the Nation's Bridges, Report No. FHWA–PD–96–001, December 1995 and errata, IBR approved for subpart D.

(c) The American Association of State Highway Transportation Officials, 444 North Capitol Street NW., Suite 249, Washington, DC 20001, (202) 624–5800, *www.transportation.org*.

(1) AASHTO Standard M328–14, Standard Specification for Transportation Materials and Methods of Sampling and Testing, Standard Equipment Specification for Inertial Profiler, 2014, 34th/2014 Edition, AASHTO, 1–56051–606–4, IBR approved for subpart C.

(2) AASHTO Standard R57–14, Standard Specification for Transportation Materials and Methods of Sampling and Testing, Standard Practice for Operating Inertial Profiling Systems, 2014, 34th/2014 Edition, AASHTO, 1–56051–606–4, IBR approved for subpart C.

(3) AASHTO Standard R55–10 (2013), Standard Specification for Transportation Materials and Methods of Sampling and Testing, Standard Practice for Quantifying Cracks in Asphalt Pavement Surface, 2014, 34th/2014 Edition, AASHTO, 1–56051–606–4, IBR approved for subpart C.

(4) AASHTO Standard PP67–14, Standard Specification for Transportation Materials and Methods of Sampling and Testing, Standard Practice for Quantifying Cracks in Asphalt Pavement Surfaces from Collected Images Utilizing Automated Methods, 2014, 34th/2014 Edition, AASHTO, 1–56051–606–4, IBR approved for subpart C.

(5) AASHTO Standard PP68–14, Standard Specification for Collecting Images of Pavement Surfaces for Distress Detection, 2014, 34th/2014 Edition, AASHTO, 1–56051–606–4, IBR approved for subpart C.

(6) AASHTO Standard R48–10 (2003), Standard Specification for Transportation Materials and Methods of Sampling and Testing, Standard Practice for Determining Rut Depth in Pavements, 2014, 34th/2014 Edition, AASHTO, 1–56051–606–4, IBR approved for subpart C.

(7) AASHTO Standard PP69–14, Standard Specification for Transportation Materials and Methods of Sampling and Testing, Standard Practice for Determining Pavement Deformation Parameters and Cross Slope from Collected Transverse Profiles, 2013, 2014, 34th/2014 Edition, AASHTO, 1–56051–606–4, IBR approved for subpart C.

(8) AASHTO Standard PP70–14, Standard Specification for Transportation Materials and Methods of Sampling and Testing, Standard Practice for Collection the Transverse Pavement Profile, 2014, 34th/2014 Edition, AASHTO, 1–56051–606–4, IBR approved for subpart C.

(9) AASHTO Standard R36–13, Standard Specification for Transportation Materials and Methods of Sampling and Testing, Standard Practice for Evaluating Faulting of Concrete Pavements, 2014, 34th/2014 Edition, AASHTO, 1–56051–606–4, IBR approved for subpart C.

(10) AASHTO Standard R43–13, Standard Specification for Transportation Materials and Methods of Sampling and Testing, Standard Practice for Quantifying Roughness of Pavement, 2014, 34th/2014 Edition, AASHTO, 1–56051–606–4, IBR approved for subpart C.

■ 4. Add subpart C to read as follows:

Subpart C—National Performance Management Measures for the Assessing Pavement Condition

Sec.
490.301 Purpose.
490.303 Applicability.
490.305 Definitions.
490.307 National Performance Management Measures for Assessing Pavement Condition.
490.309 Data requirements.
490.311 Calculation of Pavement Metrics.
490.313 Calculation of Performance Management Measures.
490.315 Establishment of minimum level for condition of Pavements.
490.317 Penalties for not maintaining minimum Interstate System pavement condition.
490.319 Other requirements.

Subpart C—National Performance Management Measures for the Assessing Pavement Condition

§ 490.301 Purpose.

The purpose of this subpart is to implement the following statutory requirements of 23 U.S.C. 150(c)(3) to:

(a) Establish measures for States and MPOs to assess the condition of pavements on the Interstate System;

(b) Establish measures for States and MPOs to assess the condition of pavements on the NHS (excluding the Interstate);

(c) Establish minimum levels for pavement condition on the Interstate System, only for purposes of carrying out 23 U.S.C. 119(f)(1);

(d) Establish data elements that are necessary to collect and maintain standardized data to carry out a performance-based approach; and

(e) Consider regional differences in establishing the minimum levels for pavement conditions on the Interstate System.

§ 490.303 Applicability.

The performance measures in this subpart are applicable to the mainline highways on the Interstate System and on the non-Interstate NHS.

§ 490.305 Definitions.

The following definitions are only applicable to this subpart, unless otherwise provided:

Asphalt pavements means pavements where the top-most surface is constructed with asphalt materials. These pavements are coded in the HPMS as having any one of the following Surface Types:

Code	Surface_type
2	Bituminous.
6	Asphalt-Concrete (AC) Overlay over Existing AC Pavement.
7	AC Overlay over Existing Jointed Concrete Pavement.
8	AC (Bituminous Overlay over Existing CRCP).

Continuously Reinforced Concrete Pavements (CRCP) means pavements where the top-most surface is constructed of reinforced Portland cement concrete with no joints. These pavements are coded in the HPMS as having the following Surface Type:

Code	Surface_type
5	CRCP—Continuously Reinforced Concrete Pavement.

Cracking means an unintentional break in the continuous surface of a pavement. *Cracking percent* means the percentage of pavement surface exhibiting cracking as follows:

(1) For Asphalt pavements, Cracking_Percent is the percentage of the area of the pavement section, exhibiting visible cracking.

(2) For Jointed Concrete Pavements, Cracking_Percent is the percentage of concrete slabs exhibiting cracking;

(3) For CRCP, the Cracking Percent is the percentage of pavement surface with longitudinal cracking and/or punchouts, spalling or other visible defects.

Faulting means a vertical misalignment of pavement joints in Portland Cement Concrete Pavements.

International Roughness Index (IRI) means a statistic used to estimate the amount of roughness in a measured longitudinal profile. The IRI is computed from a single longitudinal profile using a quarter-car simulation, as described in the report: ''On the Calculation of IRI from Longitudinal Road Profile'' (Sayers, M.W., Transportation Research Board 1501, Transportation Research Board, Washington, DC 1995).

Jointed concrete pavements means pavements where the top-most surface is constructed of Portland cement concrete with joints. It may be constructed of either reinforced or unreinforced (plain) concrete. It is coded in the HPMS as having any one of the following Surface Types:

Code	Surface_type
3	Jointed Plain Concrete Pavement.
4	Jointed Reinforced Concrete Pavement.
9	Unbonded Jointed Concrete Overlay on PCC Pavement.
10	Bonded PCC Overlay on PCC Pavement.
11	Other (includes ''whitetopping'').

Pavement means any hard surfaced travel lanes of any highway.

Pavement Surface Rating (PSR) means an observation based system formerly used to rate pavements. It is not to be used to measure or rate NHS pavement conditions.

Punchout means a distress specific to CRCP described as the area between two closely spaced transverse cracks and between a short longitudinal crack and the edge of the pavement (or a longitudinal joint) that is breaking up, spalling, or faulting.

Rutting means longitudinal surface depressions in the pavement derived from measurements of a profile transverse to the path of travel on a highway lane. It may have associated transverse displacement.

Sampling as applied to pavements, means measuring pavement conditions on a short section of pavement as a statistical representation for the entire section. Sampling is not to be used to measure or rate non-Interstate NHS pavement conditions after January 1, 2018. Sampling is not permitted on the Interstate System.

§ 490.307 National performance management measures for assessing pavement condition.

(a) To carry out the NHPP, the performance measures for States to assess pavement condition are:

(1) Percentage of pavements of the Interstate System in Good condition;

(2) Percentage of pavements of the Interstate System in Poor condition;

(3) Percentage of pavements of the non-Interstate NHS in Good condition; and

(4) Percentage of pavements of the non-Interstate NHS in Poor condition.

(b) State DOTs will collect data using the methods described in § 490.309 and will process this data to calculate individual pavement metrics for each section of pavement that will be reported to FHWA as described in § 490.311. State DOTs and FHWA will use the reported pavement metrics to compute an overall performance of Good, Fair, or Poor, for each section of pavement as described in § 490.313.

§ 490.309 Data requirements.

(a) The performance measures identified in § 490.307 are to be computed using methods in § 490.313 from the four condition metrics and three inventory data elements contained within the HPMS that shall be collected and reported following the HPMS Field Manual, which is incorporated by reference into this subpart (see § 490.111). The four condition metrics include: IRI, rutting, faulting, and Cracking_Percent. The three data elements include: Through Lanes, Surface Type, and Structure Type.

(b) State DOTs shall collect data in accordance with the following relevant HPMS requirements to report IRI, rutting (asphalt pavements), faulting (jointed concrete pavements), and Cracking Percent.

(1) For the Interstate System the following shall apply for all the pavement condition metrics:

(i) State DOTs shall collect data—

(A) From the full extent of the mainline highway;

(B) In the rightmost travel lane or one consistent lane for all data if the rightmost travel lane is not accessible;

(C) Continuously collected in a manner that will allow for reporting in uniform section lengths of 0.1 mile (528 feet); shorter sections are permitted only at the beginning of a route, end of a route, or other locations where a section length of 0.1 mile is not achievable; sections shall not exceed 0.1 mile in length;

(D) In both directions of travel; and

(E) On an annual frequency.

(ii) Estimating conditions from data samples of the full extent of the mainline highway is not permitted.

(iii) Pavement condition data shall be collected separately for each direction of the Interstate System. Averaging across directions is not permitted.

(2) For the non-Interstate NHS the following shall apply:

(i) For the IRI metric, State DOTs shall collect and report data:

(A) From the full extent of the mainline highway;

(B) In the rightmost travel lane or one consistent lane for all data if the rightmost travel lane is not accessible;

(C) Continuously collected in a manner that will allow for reporting in uniform section lengths of 0.1 mile (528 feet); shorter sections are permitted only at the beginning of a route, end of a route, or other locations where a section length of 0.1 mile is not achievable; sections shall not exceed 0.1 mile in length;

(D) In one direction of travel; and

(E) On a biennial frequency.

(F) Estimating conditions from data samples of the full extent of the mainline will not be permitted.

(ii) For the Cracking Percent, rutting and faulting metrics, data collected prior to the data collection cycle ending December 31, 2019, shall be collected:

(A) Using sampling methods outlined in the HPMS Field Manual (incorporated by reference, see § 490.111); and

(B) On at least a biennial frequency.

(iii) For the Cracking Percent, rutting and faulting metrics, data collected beginning with the data collection cycle ending December 31, 2019, shall be in accordance with the following:

(A) On the full extent (no sampling) of the mainline highway;

(B) In the rightmost travel lane or one consistent lane for all data if the rightmost travel lane is not accessible;

(C) Continuously collected in a manner that will allow for reporting in uniform section lengths of 0.1 mile (528 feet); shorter sections are permitted only at the beginning of a route, end of a route, or other locations where a section length of 0.1 mile is not achievable; sections shall not exceed 0.1 mile in length;

(D) In one direction of travel; and

(E) On at least a biennial frequency.

(F) Estimating conditions from data samples of the full extent of the mainline highway will not be permitted.

(3) Data collection methods for each of the condition metrics shall conform to the following:

(i) The device to collect data needed to calculate the IRI metric shall be in

accordance with American Association of State Highway Transportation Officials (AASHTO) Standard M328–14, Standard Specification for Transportation Materials and Methods of Sampling and Testing, Standard Equipment Specification for Inertial Profiler (incorporated by reference, see § 490.111).

(ii) The method to collect data needed to calculate the IRI metric shall be in accordance with AASHTO Standard R57–14, Standard Specification for Transportation Materials and Methods of Sampling and Testing, Standard Practice for Operating Inertial Profiling Systems (incorporated by reference, see § 490.111).

(iii) The method to collect data needed to determine the Cracking_Percent metric for all pavement types except CRCP shall be either:

(A) Manual, in accordance with AASHTO Standard R55–10 (2013), Standard Specification for Transportation Materials and Methods of Sampling and Testing, Standard Practice for Quantifying Cracks in Asphalt Pavement Surface (incorporated by reference, see § 490.111); or

(B) Automated, in accordance with AASHTO Standards PP67–14, Standard Specification for Transportation Materials and Methods of Sampling and Testing, Standard Practice for Quantifying Cracks in Asphalt Pavement Surfaces from Collected Images Utilizing Automated Methods (incorporated by reference, see § 490.111), and PP68–14, Standard Specification for Collecting Images of Pavement Surfaces for Distress Detection (incorporated by reference, see § 490.111).

(iv) For CRCP the method to collect the data needed to determine the Cracking_Percent metric is described in the HPMS Field Manual (incorporated by reference, see § 490.111) and includes longitudinal cracking and/or punchouts, spalling, or other visible defects.

(v) For Asphalt Pavements, the method to collect data needed to determine the rutting metric shall either be:

(A) A 5-Point Collection of Rutting Data method in accordance with AASHTO Standard R48–10, Standard Specification for Transportation Materials and Methods of Sampling and Testing, Standard Practice for Determining Rut Depth in Pavements (incorporated by reference, see § 490.111); or

(B) An Automated Transverse Profile Data method in accordance with AASHTO Standards PP69–14, Standard Specification for Transportation Materials and Methods of Sampling and Testing, Standard Practice for Determining Pavement Deformation Parameters and Cross Slope from Collected Transverse Profiles (incorporated by reference, see § 490.111), and PP70–14, Standard Specification for Transportation Materials and Methods of Sampling and Testing, Standard Practice for Collection the Transverse Pavement Profile (incorporated by reference, see § 490.111).

(vi) For Jointed Concrete Pavements, the method to collect data needed to determine the faulting metric shall be in accordance with AASHTO Standard R36–13, Standard Specification for Transportation Materials and Methods of Sampling and Testing, Standard Practice for Evaluating Faulting of Concrete Pavements (incorporated by reference, see § 490.111).

(c) State DOTs shall collect data in accordance with the following relevant HPMS requirements to report Through Lanes, Surface Type, and Structure Type.

(1) State DOTs shall collect data:

(i) For the full extent of the mainline highway of the NHS;

(ii) In both directions of travel for the Interstate System and in one direction of travel for the non-Interstate NHS; and

(iii) On at least a biennial frequency.

(2) Estimating data elements from samples of the full extent of the mainline highway is not permitted, except as provided in paragraph (b)(2)(ii)(A) of this section.

§ 490.311 Calculation of pavement metrics.

(a) The condition metrics and data elements needed to calculate the pavement performance measures shall be calculated in accordance with the HPMS Field Manual (incorporated by reference, see § 490.111), except as noted below.

(b) State DOTs shall calculate metrics in accordance with the following relevant HPMS requirements.

(1) For all pavements, the IRI metric:

(i) Shall be computed from pavement profile data in accordance with AASHTO Standard R43–13, Standard Specification for Transportation Materials and Methods of Sampling and Testing, Standard Practice for Quantifying Roughness of Pavement, 2014, 34th/2014 Edition, AASHTO, 1–56051–606–4 (incorporated by reference, see § 490.111);

(ii) Shall be reported for all pavements as the average value in inches per mile for each section; and

(iii) Shall not be estimated from a PSR or other observation-based method.

(2) For asphalt pavements—

(i) The Cracking Percent metric shall be computed as the percentage of the total area containing visible cracks to the nearest whole percent in each section; and

(ii) The rutting metric shall be computed as the average depth of rutting, in inches to the nearest 0.05 inches, for the section.

(3) For CRCP, the Cracking Percent metric shall be computed as the percentage of the area of the section to the nearest whole percent exhibiting longitudinal cracking, punchouts, spalling or other visible defects. Transverse cracking shall not be considered in the Cracking_Percent metric.

(4) For jointed concrete pavements—

(i) The Cracking Percent metric shall be computed as the percentage of slabs to the nearest whole percent within the section that exhibit cracking;

(ii) Partial slabs shall contribute to the section that contains the majority of the slab length; and

(iii) The faulting metric shall be computed as the average height, in inches to the nearest 0.05 inch, of faulting between pavement slabs for the section.

(c) State DOTs shall report the four pavement metrics and three inventory data elements listed in § 490.309(a) as calculated following the requirements in paragraphs (a) and (b) of this section in accordance with the following relevant HPMS requirements:

(1) Metrics and inventory data elements shall be reported to the HPMS in uniform section lengths of 0.1 mile (528 feet); shorter sections are permitted only at the beginning of a route, end of a route, or other locations where a section length of 0.1 mile is not achievable; and sections shall not exceed 0.1 mile in length;

(2) Each section shall have a single value for each of the relevant condition metrics and a single value for each of the inventory data elements.

(3) The time and location reference shall be reported for each section as follows:

(i) The State Code, Route ID, Begin Point, and End Point shall be reported as specified in the HPMS field manual (incorporated by reference, see § 490.111) for each of the four condition metrics and three inventory data elements;

(ii) The Year Record shall be reported as the four digit year for which the data represents for each of the four condition metrics and three inventory data elements; and

(iii) The Value Date shall be reported as the month and year of data collection for each of the four condition metrics.

(4) Sections for the four condition metrics and three inventory data elements shall be reported to the HPMS for the Interstate System by April 15 of each year for the data collected during the previous calendar year.

(5) Sections for the four condition metrics and three inventory data elements shall be reported to the HPMS for the non-Interstate NHS by June 15 of each year for the data collected during the previous calendar year.

§ 490.313 Calculation of performance management measures.

(a) The pavement measures in § 490.307 shall be calculated in accordance with this section and used by State DOTs and MPOs to carry out the pavement condition related requirements of this part, and by FHWA to make the significant progress and minimum condition determinations specified in §§ 490.109 and 490.317, respectively.

(b) The performance measure for pavements shall be calculated based on the data collected in § 490.309 and pavement condition metrics computed in § 490.311. The performance measure for pavements shall be based on three condition ratings of Good, Fair, and Poor calculated for each pavement section. The ratings are determined as follows.

(1) IRI rating shall be determined for all pavement types using the following criteria:

(i) If an IRI value of a pavement section in a non-urbanized area or urbanized area with a population less than 1 million is—

(A) Less than 95, the IRI rating for the pavement section is Good;

(B) Between 95 and 170, the IRI rating for the pavement section is Fair; and

(C) Greater than 170, the IRI rating for the pavement section is Poor.

(ii) If an IRI value of a pavement section in an urbanized area with a population of at least 1 million is—

(A) Less than 95, the IRI rating for the pavement section is Good;

(B) Between 95 and 220, the IRI rating for the pavement section is Fair; and

(C) Greater than 220, the IRI rating for the pavement section is Poor.

(2) Cracking condition shall be determined using the following criteria:

(i) For asphalt and jointed concrete pavement sections—

(A) If the Cracking Percent value of a section is less than 5 percent, the cracking rating for the pavement section is Good;

(B) If the Cracking Percent value of a section is equal to or greater than 5 percent and less than or equal to 10 percent the cracking rating for the pavement section is Fair; and

(C) If the Cracking Percent value of a section is greater than 10 percent the cracking rating for the pavement section is Poor.

(ii) For CRCP sections:

(A) If the Cracking Percent value of a section is less than 5 percent, the cracking rating for the pavement section is Good;

(B) If the Cracking Percent value of a section is equal to or greater than 5 percent and less than or equal to 10 percent, the cracking rating for the pavement section is Fair; and

(C) If the Cracking Percent value of a section is greater than 10 percent, the cracking rating for the pavement section is Poor.

(3) Rutting or faulting rating shall be determined using the following criteria.

(i) For asphalt pavement:

(A) If the rutting value of a section is less than 0.20 inches, the rutting rating for the pavement section is Good;

(B) If the rutting value of a section is equal to or greater than 0.20 inches and less than or equal to 0.40 inches, the rutting rating for the pavement section is Fair; and

(C) If the rutting value of a section in is greater than 0.40 inches, the rutting rating for the pavement section is Poor.

(ii) For jointed concrete pavement:

(A) If the faulting value of a section is less than 0.05 inches, the faulting rating for the pavement section is Good;

(B) If the faulting value of a section is equal to or greater than 0.05 inches and less than or equal to 0.15 inches, the faulting rating for the pavement section is Fair; and

(C) If the faulting value of a section is greater than 0.15 inches, the faulting rating for the pavement section is Poor.

(4) Missing sections or sections reported to the HPMS with unresolved, missing, or invalid data as determined on the dates specified in § 490.109(d)(1) and (2), shall be addressed as follows:

(i) Mainline lane-miles that are missing sections or represented with sections that are missing data or contain invalid data as specified in § 490.311(c) for any of the four condition metrics will be rated as Poor for each respective condition metric; and

(ii) Mainline lane-miles that are missing sections or represented with sections that are missing data or contain invalid data as specified in § 490.311(c) for any of the three inventory data elements will be rated in overall Poor condition.

(c) The overall condition for asphalt and jointed concrete pavement sections shall be determined based on the ratings for IRI, Cracking Percent, rutting and faulting, as described in paragraphs (b)(1) through (3) of this section, respectively, for each section as follows:

(1) A pavement section shall be rated an overall condition of Good only if the section is exhibiting Good ratings for all three conditions (IRI, Cracking_Percent, and rutting or faulting);

(2) A pavement section shall be rated an overall condition of Poor if two or more of the three conditions are exhibiting Poor ratings (at least two ratings of Poor for IRI, Cracking Percent, and rutting or faulting).

(3) A pavement section shall be rated an overall condition of Fair if it does not meet the criteria in paragraph (c)(1) or (2) of this section.

(d) The Overall Condition for CRCP sections shall be determined based on two ratings of IRI and Cracking_Percent, as described in paragraphs (b)(1) and (2) of this section, respectively, for each section as follows:

(1) A pavement section shall be rated an overall condition of Good only if the section is exhibiting Good ratings for both conditions (IRI and Cracking Percent);

(2) A pavement section shall be rated an overall condition of Poor if it exhibits Poor ratings for both conditions (IRI and Cracking Percent);

(3) A pavement section shall be rated an overall condition of Fair if it does not meet the criteria in paragraph (d)(1) or (2) of this section.

(e) State DOTs shall not be subject to paragraphs (c) and (d) of this section for Pavements on the non-Interstate NHS until after the data collection cycle ending December 31, 2019. During this transition period, the Overall condition for all pavement types on the non-Interstate NHS will be based on IRI rating, as described in paragraph (b)(1) of this section, until the Cracking Percent, rutting, and faulting data collection requirements are in effect, as described in § 490.309(b)(2)(iii).

(f) The pavement condition measures in § 490.307 shall be computed as described below. The measures shall be used for establishing targets in accordance with § 490.105 and reporting the conditions of the pavements in the biennial performance reporting required in § 490.107 as follows:

(1) Bridges shall be excluded prior to computing all pavement condition measures by removing the sections where the Structure Type is coded as 1.

(2) For § 490.307(a)(1) the measure for Percentage of lane-miles of the Interstate System in Good condition shall be computed to the one tenth of a percent as follows:

$$100 \times \frac{\sum_{g=1}^{Good}\{\langle End_Point - Begin_Point\rangle \times Through_lanes\}_{section\ g}}{\sum_{t=1}^{Total}\{\langle End_Point - Begin_Point\rangle \times Through_lanes\}_{section\ t}}$$

where:

Good = total number of mainline highway Interstate System sections where the overall condition is Good;

g = a section's overall condition is determined Good per paragraphs (b) or (c) of this section;

t = an Interstate System section;

Total = total number of mainline highway Interstate System sections;

Begin_Point = Begin Milepost of each section *g* or *t*;

End Point = End Milepost of each section *g* or *t*; and

Through_lanes = the number of lanes designated for through-traffic represented by a section *g* or *t*.

(3) For § 490.307(a)(2) the measure for Percentage of lane-miles of the Interstate System in Poor condition shall be computed to the one tenth of a percent as follows:

$$100 \times \frac{\sum_{p=1}^{Poor}\{\langle End_Point - Begin_Point\rangle \times Through_lanes\}_{section\ p}}{\sum_{t=1}^{Total}\{\langle End_Point - Begin_Point\rangle \times Through_lanes\}_{section\ t}}$$

where:

Poor = total number of mainline highway Interstate System sections where the overall condition is Poor;

p = a section's overall condition is determined Poor per paragraphs (b) or (c) of this section;

t = an Interstate System section;

Total = total number of mainline highway Interstate System sections;

Begin_Point = Begin Milepost of each section *p* or *t*;

End Point = End Milepost of each section *p* or *t*; and

Through_lanes = the number of lanes designated for through-traffic represented by a section *p* or *t*.

(4) For § 490.307(a)(3) the measure for Percentage of lane-miles of the non-Interstate NHS in Good condition shall be computed to the one tenth of a percent as follows:

$$100 \times \frac{\sum_{g=1}^{Good}\{\langle End_Point - Begin_Point\rangle \times Through_lanes\}_{section\ g}}{\sum_{t=1}^{Total}\{\langle End_Point - Begin_Point\rangle \times Through_lanes\}_{section\ t}}$$

where:

Good = total number of mainline highway non-Interstate NHS sections where the overall condition is Good;

g = a section's overall condition is determined Good per paragraphs (b), (c), or (d) of this section;

t = a non-Interstate NHS section;

Total = total number of mainline highway non-Interstate NHS sections;

Begin_Point = Begin Milepost of each section *g* or *t*;

End Point = End Milepost of each section *g* or *t*; and

Through_lanes = the number of lanes designated for through-traffic represented by a section *g* or *t*.

(5) For § 490.307(a)(4) the measure for Percentage of lane-miles of the non-Interstate NHS in Poor condition shall be computed to the one tenth of a percent as follows:

$$100 \times \frac{\sum_{p=1}^{Poor}\{\langle End_Point - Begin_Point\rangle \times Through_lanes\}_{section\ p}}{\sum_{t=1}^{Total}\{\langle End_Point - Begin_Point\rangle \times Through_lanes\}_{section\ t}}$$

where:

Poor = total number of mainline highway non-Interstate NHS sections where the overall condition is Poor;

p = a section's overall condition is determined Poor per paragraphs (b), (c), or (d) of this section;

t = a non-Interstate NHS section;

Total = total number of mainline highway non-Interstate NHS sections;

Begin_Point = Begin Milepost of each section *p* or *t*;

End Point = End Milepost of each section *p* or *t*; and

Through_lanes = the number of lanes designated for through-traffic represented by a section *p* or *t*.

§ 490.315 Establishment of minimum level for condition of pavements.

For the purposes of carrying out the requirements of 23 U.S.C. 119(f)(1), the Percentage of lane-miles of Interstate System in Poor condition, as computed per § 490.313(f)(3), shall not exceed 5.0 percent.

§ 490.317 Penalties for not maintaining minimum Interstate System pavement condition.

(a) The FHWA shall compute the percentage of lane-miles of the Interstate System, excluding sections on bridges, in Poor Condition, in accordance with § 490.313(f)(3), for each State annually.

(b) The FHWA shall extract data contained within the HPMS on June 15 that represents conditions from the prior calendar year for Interstate System pavement conditions to carry out paragraph (a) of this section.

(c) The FHWA shall determine State DOT compliance with § 490.315(a) after the first full year of data collection for the Interstate System following the effective date of this rule and each year thereafter.

(d) The FHWA shall determine if a State DOT is in compliance with 23 U.S.C. 119(f)(1) after the second full year of data collection for the Interstate

System following the effective date of this rule and each year thereafter based on the determination made in paragraph (c) of this section for the most recent 2 years. The FHWA will determine a State DOT to be in compliance with 23 U.S.C. 119(f)(1) if the State DOT is determined to be in compliance with § 490.315(a) in either of the most recent 2 years.

(e) The FHWA will notify State DOTs of their compliance with 23 U.S.C. 119(f)(1) prior to October 1 of the year in which the determination was made.

(f) If FHWA determines through conduct of paragraph (d) of this section a State DOT to be out of compliance with 23 U.S.C. 119(f)(1) then the State DOT shall, during the following fiscal year:

(1) Obligate, from the amounts apportioned to the State DOT under 23 U.S.C. 104(b)(1) (for the NHPP), an amount that is not less than the amount of funds apportioned to the State for Federal fiscal year 2009 under the Interstate Maintenance program for the purposes described in 23 U.S.C. 119 (as in effect on the day before the date of enactment of the MAP–21), except that for each year after Federal fiscal year 2013, the amount required to be obligated under this clause shall be increased by 2 percent over the amount required to be obligated in the previous fiscal year; and

(2) Transfer, from the amounts apportioned to the State DOT under 23 U.S.C. 104(b)(2) (for the Surface Transportation Program) (other than amounts sub-allocated to metropolitan areas and other areas of the State under 23 U.S.C. 133(d)) to the apportionment of the State under 23 U.S.C. 104(b)(1), an amount equal to 10 percent of the amount of funds apportioned to the State for fiscal year 2009 under the Interstate Maintenance program for the purposes described in 23 U.S.C. 119 (as in effect on the day before the date of enactment of the MAP–21).

§ 490.319 Other requirements.

(a) In accordance with the HPMS Field Manual (incorporated by reference, see § 490.111), each State DOT shall report the following to the HPMS no later than April 15 each year:

(1) The pavement condition metrics specified in § 490.311 that are necessary to calculate the Interstate System condition measures identified in §§ 490.307(a)(1) and (2) and;

(2) the data elements specified in § 490.309(b)(4) for the Interstate System

(b) In accordance with the HPMS Field Manual (incorporated by reference, see § 490.111), each State DOT shall report to the HPMS no later than June 15 each year the pavement condition metrics specified in § 490.311 that are necessary to calculate the non-Interstate NHS condition measures in §§ 490.307(a)(3) and (4).

(c) Each State DOT shall develop and utilize a Data Quality Management Program, approved by FHWA that addresses the quality of all data collected, regardless of the method of acquisition, to report the pavement condition metrics, discussed in § 490.311, and data elements discussed in § 490.309(b)(4).

(1) In a Data Quality Management Programs, State DOTs shall include, at a minimum, methods and processes for:

(i) Data collection equipment calibration and certification;

(ii) Certification process for persons performing manual data collection;

(iii) Data quality control measures to be conducted before data collection begins and periodically during the data collection program;

(iv) Data sampling, review and checking processes; and

(v) Error resolution procedures and data acceptance criteria.

(2) Not later than 1 year after the effective date of this regulation, State DOTs shall submit their Data Quality Management Program to FHWA for approval. Once FHWA approves a State DOT's Data Quality Management Program, the State DOT shall use that Program to collect and report data required by §§ 490.309 to 490.311. State DOTs also shall submit any proposed significant change to the Data Quality Management Program to FHWA for approval prior to implementing the change.

■ 5. Add subpart D to read as follows:

Subpart D—National Performance Management Measures for Assessing Bridge Condition

Sec.
490.401 Purpose.
490.403 Applicability.
490.405 Definitions.
490.407 National performance management measures for assessing bridge condition.
490.409 Calculation of National performance management measures for assessing bridge condition.
490.411 Establishment of minimum level for condition for bridges.
490.413 Penalties for not maintaining bridge condition.

Subpart D—National Performance Management Measures for Assessing Bridge Condition

§ 490.401 Purpose.

The purpose of this subpart is to implement the requirements of 23 U.S.C. 150(c)(3)(A)(ii)(III), which requires the Secretary of Transportation to establish performance measures for the purpose of carrying out the NHPP and for State DOTs and MPOs to use in assessing the condition of bridges on the NHS.

§ 490.403 Applicability.

The section is only applicable to NHS bridges including bridges on ramps connecting to the NHS as defined by 23 U.S.C. 103.

§ 490.405 Definitions.

The following definitions are only applicable to this subpart, unless otherwise provided:

Bridge as used in this section, is defined in 23 CFR 650.305, the National Bridge Inspection Standards.

Structurally deficient as used in §§ 490.411 and 490.413 is a classification given to a bridge which has significant load carrying elements in poor or worse condition or the adequacy of the waterway opening provided by the bridge is determined to be insufficient to the point of causing overtopping with intolerable traffic interruptions.

§ 490.407 National performance management measures for assessing bridge condition.

(a) There are three classifications for the purpose of assessing bridge condition. They are:

(1) Percentage of NHS bridges classified as in Good condition;

(2) Percentage of NHS bridges classified as in Fair condition; and

(3) Percentage of NHS bridges classified as in Poor condition.

(b) [Reserved].

(c) To carry out the NHPP, two of the three classifications are performance measures for State DOTs to use to assess bridge condition on the NHS. They are:

(1) Percentage of NHS bridges classified as in Good condition; and

(2) Percentage of NHS bridges classified as in Poor condition.

(d) Determination of Good and Poor conditions are described in § 490.409.

§ 490.409 Calculation of national performance management measures for assessing bridge condition.

(a) The bridge measures in § 490.407 shall be calculated in accordance with this section and used by State DOTs and MPOs to carry out the bridge condition related requirements of this part and by FHWA to make the significant progress determination specified in § 490.109.

(b) The condition of bridges on the NHS, including bridges on ramps connecting to the NHS, shall be classified as Good, Fair, or Poor following the criteria specified in this paragraph. The assignment of a classification of Good, Fair, or Poor

shall be based on the bridge's condition ratings for NBI Items 58—Deck, 59—Superstructure, 60—Substructure, and 62—Culverts. For the purposes of national performance measures under the NHPP, the method of assessment to determine the classification of a bridge will be the minimum of condition rating method, *i.e.,* the condition ratings for lowest rating of a bridge's 3 NBI Items, 58—Deck, 59—Superstructure, and 60—Substructure, and will determine the classification of a bridge. For culverts, the rating of its NBI Item, 62—Culverts, will determine its classification. The NHS bridges will be classified as Good, Fair, or Poor based on the following criteria:

(1) Good: When the lowest rating of any of the 3 NBI items for a bridge (Items 58—Deck, 59—Superstructure, 60—Substructure) is 7, 8 or 9, the bridge will be classified as Good. When the rating of NBI item for a culvert (Item 62—Culverts) is 7, 8, or 9, the culvert will be classified as Good.

(2) Fair: When the lowest rating of any of the 3 NBI items for a bridge is 5 or 6, the bridge will be classified as Fair. When the rating of NBI item for a culvert is 5 or 6, the culvert will be classified as Fair.

(3) Poor: When the lowest rating of any of the 3 NBI items for a bridge is 4, 3, 2, 1, or 0, the bridge will be classified as Poor. When the rating of NBI item for a culvert is 4, 3, 2, 1, or 0, the culvert will be classified as Poor.

(c) The bridge measures specified in § 490.407(c) shall be calculated for the applicable bridges per paragraph (a) of this section that pertain to each target established by the State DOT or MPO in § 490.105(e) and (f), respectively, as follows:

(1) For § 490.407(c)(1), the measure for the Percentage of bridges classified as in Good condition shall be computed and reported to the one tenth of a percent as follows:

$$100 \times \frac{\sum_{g=1}^{GOOD} [\text{Length} \times \text{Width}]_{\text{Bridge g}}}{\sum_{s=1}^{TOTAL} [\text{Length} \times \text{Width}]_{\text{Bridge s}}}$$

Where:

GOOD = total number of the applicable bridges, where their condition is Good per paragraph (b)(1) of this section;

g = a bridge determined to be in Good condition per paragraph (b)(1) of this section;

Length = corresponding value of NBI Item 49—Structure Length for every applicable bridge;

Width = corresponding value of NBI Item 52—Deck Width or value of Item 32 Approach Roadway Width for culverts where the roadway is on a fill [*i.e.,* traffic does not directly run on the top slab (or wearing surface) of the culvert] and the headwalls do not affect the flow of traffic for every applicable bridge.

s = an applicable bridge per paragraph (b) of this section; and

TOTAL = total number of the applicable bridges specified in paragraph (b) of this section.

(2) For § 490.407(c)(2), the measure for the Percentage of bridges classified as in Poor condition shall be computed and reported to the one tenth of a percent as follows:

$$100 \times \frac{\sum_{p=1}^{POOR} [\text{Length} \times \text{Width}]_{\text{Bridge p}}}{\sum_{s=1}^{TOTAL} [\text{Length} \times \text{Width}]_{\text{Bridge s}}}$$

Where:

POOR = total number of the applicable bridges, where their condition is Poor per paragraph (b)(3) of this section;

p = a bridge determined to be in Poor condition per paragraph (b)(3) of this section;

Length = corresponding value of NBI Item 49—Structure Length for every applicable bridge;

Width = corresponding value of NBI Item 52—Deck Width or value of Item 32 Approach Roadway Width for culverts where the roadway is on a fill [*i.e.,* traffic does not directly run on the top slab (or wearing surface) of the culvert] and the headwalls do not affect the flow of traffic for every applicable bridge.

s = an applicable bridge per paragraph (b) of this section; and

TOTAL = total number of the applicable bridges specified in paragraph (b) of this section.

(d) The measures identified in § 490.407(c) shall be used to establish targets in accordance with § 490.105 and report targets and conditions described in § 490.107.

(e) The NBI Items included in this section are found in the Recording and Coding Guide for the Structure Inventory and Appraisal of the Nation's Bridges, which is incorporated by reference (see § 490.111).

§ 490.411 Establishment of minimum level for condition for bridges.

(a) State DOTs will maintain bridges so that the percentage of the deck area of bridges classified as Structurally Deficient does not exceed 10.0 percent. This minimum condition level is applicable to bridges on the NHS and bridges on ramps connecting to the NHS within a State and bridges on the NHS that cross a State border.

(b) For the purposes of carrying out this section and § 490.413, a bridge will be classified as Structurally Deficient when one of its NBI Items, 58—Deck, 59—Superstructure, 60—Substructure, or 62—Culverts, is 4 or less, or when one of its NBI Items, 67—Structural Evaluation or 71—Waterway Adequacy, is 2 or less.

(c) For all NHS bridges including ramps connecting to the NHS and NHS bridges that cross a State border, FHWA shall calculate a ratio of the total deck area of all bridges classified as Structurally Deficient to the total deck area of all applicable bridges for each State. The percentage of deck area of bridges classified as Structurally Deficient shall be computed by FHWA to the one tenth of a percent as follows:

$$100 \times \frac{\sum_{SD=1}^{\text{Structurally Deficient}} [\text{Length} \times \text{Width}]_{\text{Bridge SD}}}{\sum_{s=1}^{TOTAL} [\text{Length} \times \text{Width}]_{\text{Bridge s}}}$$

Where:

Structurally Deficient = total number of the applicable bridges, where their classification is Structurally Deficient per this section and § 490.413;

SD = a bridge classified as Structurally Deficient per this section and § 490.413;

Length = corresponding value of NBI Item 49—Structure Length for every applicable bridge;

Width = corresponding value of NBI Item 52—Deck Width or value of Item 32 Approach Roadway Width for culverts where the roadway is on a fill [*i.e.,* traffic does not directly run on the top slab (or wearing surface) of the culvert] and the headwalls do not affect the flow of traffic for every applicable bridge.

s = an applicable bridge per this section and § 490.413; and

TOTAL = total number of the applicable bridges specified in this section and § 490.413.

(d) The FHWA will annually determine the percentage of the deck area of NHS bridges classified as Structurally Deficient for each State DOT and identify State DOTs that do not meet the minimum level of condition for NHS bridges based on data cleared in the NBI as of June 15 of each year. The FHWA will notify State DOTs of their compliance with 23 U.S.C. 119(f)(2) prior to October 1 of the year in which the determination was made.

(e) For the purposes of carrying out this section, State DOTs will annually submit their most current NBI data on highway bridges to FHWA no later than March 15 of each year.

(f) The NBI Items included in this section are found in the Recording and Coding Guide for the Structure Inventory and Appraisal of the Nation's Bridges, which is incorporated by reference (see § 490.111).

§ 490.413 Penalties for not maintaining bridge condition.

(a) If FHWA determines for the 3-year period preceding the date of the determination, that more than 10.0 percent of the total deck area of bridges in the State on the NHS is located on bridges that have been classified as Structurally Deficient, the following requirements will apply.

(1) During the fiscal year following the determination, the State DOT shall obligate and set aside in an amount equal to 50 percent of funds apportioned to such State for fiscal year 2009 to carry out 23 U.S.C. 144 (as in effect the day before enactment of MAP–21) from amounts apportioned to a State for a fiscal year under 23 U.S.C. 104(b)(1) only for eligible projects on bridges on the NHS.

(2) The set-aside and obligation requirement for bridges on the NHS in a State in this paragraph (a) for a fiscal year shall remain in effect for each subsequent fiscal year until such time as less than 10 percent of the total deck area of bridges in the State on the NHS is located on bridges that have been classified as Structurally Deficient as determined by FHWA.

(b) The FHWA will make the first determination by October 1, 2016, and each fiscal year thereafter.

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